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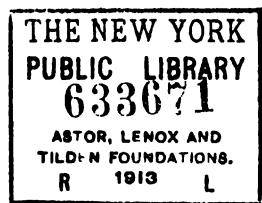
THE GOVERNMENT
OF THE
DISTRICT OF COLUMBIA

A STUDY IN
FEDERAL AND MUNICIPAL ADMINISTRATION

BY
WALTER FAIRLEIGH DODD



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JOHN BYRNE & CO.
1909



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P R E F A C E.

The District of Columbia occupies a unique position in the governmental organization of the United States. Its government has the combined functions of city, county, and state, and unites features of municipal, state, and federal organization. It is a federal district, governed to a large extent by the federal government. A study of the government of the District of Columbia involves two somewhat distinct elements: (1) An analysis of the adaptation of federal organs to the control of municipal affairs. (2) A study of purely municipal activities, which are being conducted in a manner not very different from that prevailing in other cities of the United States. It is on account of the two-fold character of the government of the federal district that this book has been called a study in federal and municipal administration.

In this study familiarity with the organization of the federal government is assumed. A knowledge is also assumed of the working of the committee system in the two houses of Congress—of information contained in works like McConachie's *Congressional Committees* and Wilson's *Congressional Government*. The analysis of the committee system contained in this book is made simply with reference to the relation of Congress to the federal district, and little attempt is made to generalize with respect to the working of the committee system in other matters.

The act of Congress of June 11, 1878, forms the foundation of the present government of the District of Columbia, and may in a way be called the constitution of the federal district; how-

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ever, this law cannot be called a constitution in the proper sense of that term as used in the United States, for it is at any time subject to amendment or repeal by the legislative action of Congress. The act of 1878 has been so amended that it does not really represent the present organization of the District of Columbia, but its two fundamental provisions remain in force: (1) The government of the federal district by three appointed commissioners. (2) The provision that the United States government shall defray one-half of the expenses of the District government.

Those unfamiliar with the local organization of the federal capital may think it curious to find practically no mention of the city of Washington in the following pages. To avoid confusion it should be said that for governmental purposes there has been no city of Washington recognized by law since 1871, although this term is still used to a certain extend in federal statutes to indicate the more densely populated area of the District of Columbia. The densely populated area is now extending at such a rapid rate that the terms "District of Columbia" and "City of Washington" will soon be synonymous as geographical expressions. The town of Georgetown was abolished as a governmental organization in 1871, but the name of Georgetown continued to be used in federal laws as a geographical expression until 1895, when a federal act was passed discontinuing this practice.

In the preparation of this work I have received assistance from many individuals. I wish especially to acknowledge the aid of the following officials of the District government: Mr. H. B. F. Macfarland, President of the Board of Commissioners; Mr. A. Tweedale, Auditor; Dr. William C. Woodward, Health Officer; Mr. George S. Wilson, Secretary of the Board of Charities; Mr. W. A. McFarland, Superintendent of the Water Department; Mr. Snowden Ashford, Inspector of Buildings; Mr. Daniel E. Garges,

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Chief Clerk, Engineer Department; Mr. William V. Cox, Vice-president, and Mr. Harry O. Hine, Secretary, of the Board of Education. I also desire to express my appreciation of assistance received from Mr. Cuno H. Rudolph; Mr. Charles F. Weller, formerly of the Associated Charities; and from Messrs. W. Mosby Williams, Evan H. Tucker, W. G. Henderson, Charles C. Lancaster, and Louis P. Shoemaker. Professor W. W. Willoughby, of Johns Hopkins University, Mr. W. F. Willoughby, and Dr. H. J. Harris have read my manuscript and made many valuable suggestions. None of the gentlemen mentioned above are responsible for any errors contained in the following pages or for any opinions expressed therein.

W. F. DODD.

Washington, March 10, 1909.



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CHAPTER I.

ESTABLISHMENT OF THE SEAT OF GOVERNMENT.

The first Continental Congress met at Philadelphia on September 5, 1774, and from that time until 1783, Philadelphia was the seat of government of the United States. For several brief periods during this time the exigencies of military operations made it necessary for Congress to hold its sessions elsewhere. On December 12, 1776, the Continental Congress adjourned to meet at Baltimore on the twentieth of the same month, and sat at Baltimore until February 27, 1777, when it adjourned to meet again at Philadelphia in March of the same year.¹ In September, 1777, Philadelphia was again threatened by the operations of the British army, and on September 14 Congress resolved to meet at Lancaster, Pennsylvania, if it should be necessary to remove from Philadelphia. The public papers were transferred to Lancaster. Congress did not formally adjourn to Lancaster, but General Washington having notified its members of the danger of longer remaining in Philadelphia, they retired from that city,² and met at Lancaster on September 27, but adjourned on the same day to meet at Yorktown, Pennsylvania. Congress convened at Yorktown on September 30, 1777, and remained there until June 27, 1778. General Washington, by a letter of

¹ Journals of the Continental Congress, Dec. 12, 1776, Feb. 27, 1777.

² N. C. Colonial Records, XI, 631.

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June 18, 1778,^{*} notified the president of Congress that the British army had evacuated Philadelphia, and Congress on June 24, resolved to meet again at Philadelphia on the second of July; however a quorum did not attend until July 7, 1778. The Continental Congress continued to hold its sessions at Philadelphia until June 21, 1783.

During the war with Great Britain Philadelphia remained the capital of the United States, largely because of its importance as the largest city of the country, largely because of its central location and easy accessibility. However, there were other states besides Pennsylvania which desired to have within their borders the permanent seat of government. Maryland and New York were the first states to move in this matter. On June 4, 1783, Congress resolved "that copies of the act of the legislature of Maryland, relative to the cession of the city of Annapolis to Congress for their permanent residence; and also copies of the [act of the] legislature of New York, relative to the cession of the town of Kingston for the same purpose, together with the papers which accompanied both acts, be transmitted to the executives of the respective states, and that they be informed by the President, that Congress have assigned the first Monday in October next, for taking the said offers into consideration."

Before the time set for the consideration of the question of the permanent seat of government, the Congress was forced to determine upon a change of its temporary residence. About eighty of the Pennsylvania troops, stationed at Lancaster, mutinied in June, 1783, and marched to Philadelphia. These troops did not openly threaten the safety of the Congress, but their purpose was to frighten that body into some definite action regarding the pay of the army. Congress on June 21, 1783, appointed a committee to confer with the supreme executive council of Pennsylvania,

* *Ford's Writings of Washington*, VII, 66.

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and resolved that if there were "not a satisfactory ground for expecting adequate and prompt exertions of this state for supporting the dignity of the federal government, the president on the advice of the committee be authorized and directed to summon the members of Congress to meet on Thursday next at Trenton or Princeton, in New Jersey." The authorities of the state claimed that the militia could not be relied upon to quell the mutiny, and refused to take any action in the matter. Congress met at Princeton in New Jersey on June 30, 1783. The government of the Confederation had been put to flight by a handful of mutinous soldiers.

The adjournment to Princeton was but a temporary expedient. There were now before Congress two questions, that of the permanent seat of government, and that as to the place where it should hold its sessions until the permanent seat of government should be ready for occupancy. On August 1, 1783, a motion was made for an adjournment to Philadelphia, and thence to Annapolis; the part of this motion relating to Annapolis was stricken out, and its further consideration was postponed until August 13, when it was defeated. The government of Pennsylvania was anxious to have Congress return to Philadelphia; the governor and supreme executive council united in an invitation to Congress, and the General Assembly of Pennsylvania, by resolutions of August 29, 1783, declared that it "would be highly agreeable to this house, if that honorable body should deem it expedient to return to and continue in the city of Philadelphia," and instructed its delegates "to request that Congress will be pleased to define what jurisdiction they deem necessary to be vested in them, in the place where they shall permanently reside." These resolutions led to a consideration by a select committee and in committee of the whole house, of the question as to

* Journals of the Continental Congress, August 13, September 1, 1783.

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what jurisdiction Congress would consider it proper to exercise in the place selected for its permanent residence, but no conclusion was reached upon this matter.*

No action whatever was taken regarding either the permanent or temporary seats of government before October 6, 1783, the date fixed by the terms of the resolution of June 4, 1783, for the consideration of the offers of New York and Maryland. This question, the first important sectional question to be considered, occupied a large part of the time of Congress throughout the month of October.

The first action taken was the adoption of a resolution that a separate vote be taken as to the state in which buildings should be provided for the residence of Congress. This vote resulted in no decision for no state received a majority of the votes, New Jersey and Maryland each receiving four votes, the highest number. Mr. Gerry, of Massachusetts, moved, on October 7, that buildings for the use of Congress be erected on the banks of the Delaware, near Trenton, or on the banks of the Potomac near Georgetown, and that "the right of soil and an exclusive or such other jurisdiction as Congress may direct shall be vested in the United States." The part of this motion relating to the Potomac was stricken out, and an attempt to add the Hudson river was defeated. The motion was further amended, and as adopted simply provided that buildings for the use of Congress should be erected on or near the banks of the Delaware river. This motion was carried by the states north of Maryland.* A motion that the buildings should be erected near Wilmington was defeated. Congress then decided that the buildings should be erected near the falls of the Delaware river, and appointed a committee of five

*Journals of the Continental Congress, September 22, 25, 1783. Hunt's *Writings of Madison*, I, 3-5, 9, 12, 14, 16.

*Hunt's *Writings of Madison*, I, 24.

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members to view the country and report a proper district for the seat of government. A motion made on October 8 to reconsider this action was defeated by a sectional vote, Delaware now voting with the Southern States.

Delaware had originally voted for the Delaware river in the hope that Wilmington would be adopted as the federal capital, but when this hope failed, was in favor of a more southern location than the falls of the Delaware river.¹ This situation made a reconsideration possible. In as much as the temporary place of residence of Congress was at the same time unsettled it was natural that upon a reconsideration the two questions should be joined.

On October 10, 1783, a motion was carried that Congress should adjourn from Princeton. A motion to adjourn to Trenton was defeated, as was also a motion to adjourn to Philadelphia and thence to Trenton, and a motion to adjourn to Annapolis as a temporary residence. A motion to adjourn to Williamsburg obtained no other vote than that of the State of Virginia.²

Mr. Gerry on October 17, 1783, moved that two seats of government should be established, Congress to reside alternately upon the Delaware and Potomac rivers. This motion was considered on October 20 and 21, and was amended so as to make provision for the temporary residence of Congress until buildings should be prepared at the two permanent seats of government, and was passed on October 21, 1783. The text of Gerry's resolution as amended and adopted is of some interest:

"Whereas there is reason to expect that the providing buildings for the alternate residence of Congress in two places, will be productive of the most satisfactory effects, by securing the mutual confidence and affection of the States. *Resolved*, That

¹ Ford's *Writings of Thomas Jefferson*, III, 341.

² Journals of the Continental Congress, Oct. 10, 11, 13, 1783. Hunt's *Writings of Madison*, I, 24.

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buildings be likewise erected for the use of Congress, at or near the lower falls of the Potomac or Georgetown; provided a suitable district on the banks of the river can be procured for a federal town, and the right of soil, and an exclusive jurisdiction, or such other as Congress may direct, shall be vested in the United States; and that until the buildings to be erected on the banks of the Delaware and Potomac shall be prepared for the reception of Congress, their residence shall be alternately at equal periods, of not more than one year, and not less than six months in Trenton and Annapolis; and the President is hereby authorized and directed to adjourn Congress on the 12th day of November next, to meet at Annapolis on the 26th day of the same month." In pursuance of this resolution, as later amended, Congress adjourned from Princeton on November 4; a number of the members of Congress met at Annapolis on November 26, but a quorum did not attend there until December 13, 1783.

The resolution of October 21, 1783, although in form a definite settlement of both the permanent and temporary residences of Congress, was not, in fact, considered a final settlement of these questions. Jefferson rightly gauged the situation: "This was," he wrote, "considered by some as a compromise; by others as only unhinging the first determination and leaving the whole matter open for discussion at some future day. It was in fact a rally, and making a drawn battle of what at first appeared to be decided against us. What will be the final decision can only be conjectured."⁹ Although a committee was appointed to report a suitable district on the Potomac for carrying into effect the resolutions regarding a permanent seat of government,¹⁰ no further action was taken by Congress in the matter.

Writing to Madison on February 20, 1784, Jefferson said:

⁹ *Ford's Writings of Jefferson*, III, 340.

¹⁰ *Journals of the Continental Congress*, October 30, 1783.

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"Georgetown languishes. The smile is hardly covered now when the federal towns are spoken of. I fear that our chance is at this time desperate."¹¹ Jefferson now hoped to get the Congress to the Potomac by stratagem. By the terms of the Articles of Confederation the agreement of nine states in Congress was necessary for the appropriation of money, with which buildings might be erected, but if buildings were once provided seven states could carry an adjournment to the new seat of government. Jefferson went so far as to draft proposed resolutions by which Maryland and Virginia should unite in erecting buildings on the Potomac for the immediate accommodation of Congress,¹² and it was probably at his suggestion that Monroe proposed in Congress on April 14, 1784: "That the States of Maryland and Virginia be informed, that provided they will advance the United States pounds, for the erecting the necessary buildings for the reception of Congress at or near Georgetown, at the falls of the Potomac, it shall be allowed them in the requisition made on them for the year , by the United States in Congress assembled."¹³ However, Monroe's resolution was defeated, as was also a motion made on April 26, 1784, that Congress should proceed to erect buildings on both the Potomac and Delaware rivers at the expense of the United States.

When it was seen that nothing further could be done toward obtaining a permanent seat of government on the Potomac river, an effort was made to have Annapolis fixed upon as the residence of Congress until the permanent seat of government should be ready to receive that body, but this plan was also defeated,¹⁴

¹¹ Ford's *Writings of Jefferson*, III, 400.

¹² *Ibid.*, III, 458, 462.

¹³ The blanks were to be filled in by Congress, if the motion were agreed to.

¹⁴ Journals of the Continental Congress, April 26, 1784.

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¹² *Ibid.*, III, 458, 462.

¹³ The blanks were to be filled in by Congress, if the motion were agreed to.

¹⁴ Journals of the Continental Congress, April 26, 1784.

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and Congress adjourned from Annapolis on June 3, to meet at Trenton on October 30, 1784.

The question of the permanent seat of government was not again considered until December 20, 1784, when Congress resolved that it would be inexpedient to erect public buildings at more than one place. The matter was further considered on December 23, and an ordinance was passed making provision for both the temporary and permanent residences of Congress. This ordinance is of sufficient interest to be quoted in full:

"Be it ordained by the United States in Congress assembled, that the resolutions of the 20th inst. respecting the erecting buildings for the use of Congress, be carried into effect without delay; that for this purpose, three commissioners be appointed, with full power, to lay out a district, of not less than 2 nor exceeding 3 miles square, on the banks of either side of the Delaware, not more than eight miles above or below the falls thereof, for a federal town; that they be authorized to purchase the soil, or such part of it as they may judge necessary, to be paid by proper installments; to enter into contracts for erecting and completing, in an elegant manner, a federal house for the accommodation of Congress, and for the executive officers thereof; a house for the use of the President of Congress, and suitable buildings for the residence of the secretary of foreign affairs, secretary at war, secretary of Congress, secretary of the marine, and officers of the treasury; that the said commissioners be empowered to draw on the treasury of the United States for a sum not exceeding 100,000 dollars, for the purpose aforesaid; that in choosing a situation for the buildings, due regard be had to the accommodation of the states, with lots for houses for the use of their delegates respectively; that on the 24th day of December inst. Congress stand adjourned to meet at the city of New York, on the 11th day of January following, for the despatch of public business, and that the sessions of Congress be held at the

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place last mentioned, until the buildings aforesaid shall be ready for their reception."

One hundred thousand dollars was a large sum to the Congress of the Confederation, for the treasury of the Confederation was chronically empty, and at this time there were probably no funds upon which commissioners appointed under this ordinance could draw. Commissioners were appointed to carry the ordinance into effect,¹⁵ but they did nothing, and the Congress of the Confederation took no further action toward the establishment of a permanent capital of the United States.¹⁶ Beginning with January, 1785, Congress continued to hold its sessions in New York, and that city was selected as the place where proceedings should be commenced under the constitution of 1787.¹⁷

In the constitutional convention of 1787 the question of a capital for the new government was briefly discussed. It was realized that the want of a permanent residence had discredited the Congress of the Confederation, and that the new government should have a permanent place of residence. The experience of Congress at Philadelphia in 1783, of insult by a small body of raw soldiers, convinced the members of the federal convention that under the new government Congress should have exclusive jurisdiction over the territory in which it sat. The question was raised whether provision should not be made in the constitution against locating the federal capital at a place which was also the capital of a state, but no action was taken upon this question for fear of offending the cities of New York and Philadelphia, whose votes would be needed to obtain the adoption

¹⁵ Journals of the Continental Congress, Feb. 10, 11, March 10, 16, 1785.

¹⁶ In April and May, 1787, the question of the seat of government was again brought forward in Congress, but no action was taken. Journals, April 10, May 10, 1787.

¹⁷ Journals of the Continental Congress, Sept. 13, 1788.

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of the new constitution.¹² The only provision of the federal constitution regarding a permanent seat of government is that which provides that Congress shall have power: "To exercise exclusive legislation in all cases whatsoever, over such district, (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States..."

The location of the federal district was left within the power of Congress, and the new government of the United States thus faced the question which had agitated the Congress of the Confederation from 1783 to 1787. This question was the first question of a purely sectional character to be discussed in Congress, and occupied much of the time during the first two sessions of that body. It was regarded as a matter of course that the capital would not in any case be located north of New York or south of the Potomac. The New England states would naturally prefer the most northerly location, and the Southern States the most southerly; so the balance of power lay with the senators and representatives of the Middle States. This situation afforded an excellent opportunity for trading, and the future location of the capital was decided by trading. Had the question been decided alone it is probable that the New England and Middle States would have determined the location of the capital at a more northern point than the Potomac.

In the first session of Congress such trading as there was seems to have related only to the question of the seat of government. Crotchety William Maclay heard of numerous trades or rumors of trades regarding the matter. He records that he met Mr. Smith of Maryland on August 29, 1789: "He had a terrible story and *from the most undoubted authority*. A contract was entered into by the Virginians and Pennsyl-

¹² Madison's Debates (Scott's ed.), 443, 444, 503-505.

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vanians to fix the permanent residence on the Potomac, right or wrong, and the temporary residence was to be at Philadelphia."["] However, all of the Pennsylvania members of Congress denied that such a contract had been made, and a few days later Maclay refers to an understanding with the New England members that the permanent residence should be in Pennsylvania.["] On September 3, 1789, Mr. Goodhue said in the House of Representatives: "The Eastern members, with the members from New York, have agreed to fix a place upon national principles, without a regard to their own convenience, and have turned their minds to the banks of the Susquehanna."["] This statement was seized upon as evidence that there existed a combination against Southern interests, and much was made of the sectional argument in the discussion which followed. However, the House voted in favor of the Susquehanna. When the House bill came to the Senate the latter body substituted Germantown for the Susquehanna location, and the House then concurred in this change, but introduced a slight amendment to the bill, which was not further considered by the Senate before the adjournment of Congress.["] So it was by a mere chance that Germantown failed to become the seat of government of the United States.

The subject must thus come up again in the second session of Congress and from the temper of that body it seemed doubtful whether the federal capital would be located south of Pennsylvania. Madison almost gave up hope, and wrote as late as June 17, 1790, "The Potomac stands a bad chance, and yet it is not

["] Maclay's Journal, August 29, 1789.

["] *Ibid.*, Sept. 2, 1789.

["] Annals of Congress, I, 836, 855, 860.

["] House Journal, September 22, 26, 28, 1789. Senate Journal, Sept. 24, 28, 1789. A summary of the debate in the Senate appears in King's *Life and Correspondence of Rufus King*, I, 370-375.

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impossible that in the vicissitudes of the business it may turn up in some form or other.”²²

Another measure under consideration in the second session of the first Congress which aroused strong feeling was that of the assumption by the United States of the state debts contracted during the revolutionary war. Alexander Hamilton, the Secretary of the Treasury, placed great hope upon the assumption of state debts as a measure to strengthen the federal government, and it formed an essential part of his financial policy, but his proposal was rejected by the House of Representatives on April 26, 1790. This measure became one of the first great political questions, and curiously enough it produced a sectional division of a character similar to that which existed upon the question of establishing a permanent seat of government. New England favored assumption; the South, with the exception of South Carolina, opposed it; the Middle States were divided. The situation was an excellent one for bargaining between the adherents of the two measures.

The first evidence of a bargain involving the two bills is the statement of Fisher Ames in a letter to Thomas Dwight, of June 11, 1790: “You have seen that we are sold by the Pennsylvanians, and the assumption with it. They seem to have bargained to prevent the latter, on the terms of removing to Philadelphia.”²³ The House had agreed on May 31, 1790, to remove to Philadelphia, but the Senate refused to agree to this vote, and in order to defeat the bargain of the Pennsylvanians, the assumptionists on June 11 carried through the House a vote to adjourn to Baltimore. However, all the bargaining was not on one side. William Maclay records that on June 14 he called upon the Assistant of the Secretary of the Treasury: “He

²² Hunt’s *Writings of James Madison*, VI, 16.

²³ *Works of Fisher Ames*, I, 79.

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would not let me tell my business, so keen was he on the subject of proposing a bargain to me. Pennsylvania to have the permanent residence on the Susquehanna, and her delegation to vote for the assumption" [of state debts]. Maclay rejected this offer, which had been made in similar terms to Robert Morris, the other Senator from Pennsylvania, but says that a similar proposal was again made by Hamilton to the Pennsylvania members of Congress, and that Jefferson had made a separate proposal to Morris of having the temporary residence at Philadelphia for fifteen years and the permanent residence at Georgetown on the Potomac.*

The successful bargain was the one to which Hamilton and Madison were principals. In this bargain Jefferson played the part of the "honest broker," and his account of the transaction is interesting: "Hamilton was in despair. As I was going to the President's one day, I met him in the street. He walked me backwards and forwards before the President's door for half an hour. He painted pathetically the temper into which the legislature had been wrought, the disgust of those who were called the creditor states, the danger of the secession of their members, and the separation of the states. He observed that the members of the administration ought to act in concert, that tho' this question was not of my department, yet a common duty should make it a common concern; that the President was the center on which all administrative questions ultimately rested, and that all of us should rally around him, and support with joint efforts measures approved by him; and that the question having been lost by a small majority only, it was probable that an appeal from me to the judgment and discretion of some of my friends might effect a change in the vote, and the machine of government, now suspended, might be again set in motion. I told him that I was really a stranger to the whole subject; not

* Maclay's Journal, June 14, 15, 1790.

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having yet informed myself of the system of finances adopted, I knew not how far this was a necessary sequence; that undoubtedly if its rejection endangered a dissolution of our union at this incipient stage, I should deem that the most unfortunate of all consequences, to avert which all partial and temporary evils should be yielded. I proposed to him however to dine with me the next day, and I would invite another friend or two, bring them into conference together, and I thought it impossible that reasonable men, consulting together coolly, could fail, by some mutual sacrifices of opinion, to form a compromise which was to save the union. The discussion took place. I could take no part in it, but an exhortatory one, because I was a stranger to the circumstances which should govern it. But it was finally agreed that, whatever importance had been attached to the rejection of this proposition, the preservation of the union, and of the concord among the states was most important, and that therefore it would be better that the vote of rejection should be rescinded, to effect which some members should change their votes. But it was observed that this pill would be peculiarly bitter to the Southern States, and that some concomitant measure should be adopted to sweeten it a little to them. There had before been propositions to fix the seat of government either at Philadelphia, or at Georgetown on the Potomac; and it was thought that by giving it to Philadelphia for ten years and to Georgetown permanently afterwards, this might, as an anodyne, calm in some degree the ferment which might be excited by the other measure alone.”

Madison agreed to allow the passage of the assumption bill and Hamilton, through the agency of Robert Morris, carried through the arrangement regarding the permanent and temporary residences of Congress.* Conscientious William Maclay,

* Ford's *Writings of Jefferson*, I, 162; VI, 172. For a criticism of this bargain see *Life and Correspondence of Rufus King*, I, 384, 390.

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who would not be a party to a bargain, was an unconscious instrument in the execution of this agreement. At a meeting of the Pennsylvania delegation he agreed to be bound by the wishes of the majority for a ten years' temporary residence at Philadelphia, and the permanent seat of government on the Potomac. At almost the same time he vigorously denied that any bargain had been made bartering to support assumption in return for the temporary residence at Philadelphia.["]

The act of Congress of July 16, 1790, provided: (1) For the acceptance of a district not exceeding ten miles square to be located on the river Potomac, somewhere between the mouths of the Eastern Branch and the Conococheague. This was an acceptance of offers of territory made by Maryland and Virginia by acts of December 23, 1788, and December 3, 1789, respectively. (2) The President was authorized to appoint three commissioners to lay out and survey the territory, to purchase or accept such lands as the President should deem proper for the use of the United States, and to provide suitable buildings for the accommodation of Congress, the President, and the public offices of the government. In order to defray the expenses of such purchases and buildings the President was authorized and requested to accept grants of money. (3) All offices of the government were to be removed from New York to Philadelphia before the first Monday in December, 1790, there to remain until the first Monday in December, 1800. (4) On the first Monday in December, 1800, the seat of government was to be transferred to the federal district on the banks of the Potomac.["]

According to the terms of the law the President was at liberty to choose any territory between the mouths of the Conococheague and the Eastern Branch, a distance of about eighty miles, but

["] Maclay's Journal, June 24, July 3, 1790.

["] U. S. Statutes at Large, I, 130.

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Washington's surveys were started at the furthest eastern point, and in fact the land provisionally selected for a federal district extended below the Eastern Branch; this arrangement was subsequently ratified by a law of March 3, 1791, which permitted the territory to extend below the Eastern Branch and above the mouth of Hunting Creek.*

The Commissioners were appointed in January, 1791, and proceeded to execute the duties imposed upon them by law. Major Pierre Charles L'Enfant was employed to prepare plans for the federal capital, and to him is due the plan upon which the city of Washington has been constructed. The federal district was christened by the Commissioners, who wrote to Major L'Enfant on September 9, 1791: "We have agreed that the Federal district shall be called 'The Territory of Columbia,' and the Federal city the 'City of Washington.' "

* Burch, *Laws of Corporation of the City of Washington*, 214, 216.

CHAPTER II.

GOVERNMENT OF THE DISTRICT OF COLUMBIA, 1791-1871.

Government, 1790-1801.—By the laws of Maryland and Virginia which ceded the federal territory to the United States provision was made that the laws of these states should remain in force in the parts of the territory ceded by them respectively, until Congress should provide for the government of the federal district.¹ By the act of July 16, 1790, accepting the offers of Maryland and Virginia and locating the seat of the federal government on the Potomac, Congress provided “that the operation of the laws of the State within such district shall not be affected by this acceptance, until the time fixed for the removal of the government thereto, and until Congress shall otherwise by law provide.”² By these legal provisions not only did the laws already enacted by Maryland and Virginia continue to be in force in the two parts of the federal district, but new laws might be passed by the legislature of Virginia for the part of the District of Columbia lying west of the Potomac, and new laws might be passed by the legislature of Maryland for the part of the District of Columbia lying east of the Potomac river. For more than ten years the legislatures of Maryland and Virginia had power to enact laws for the District of Columbia, and this power was made

¹ Hening, Statutes at Large of Va., XIII, 43. Kilty's Laws of Md., 1791, ch. 45.

² U. S. Statutes at Large, I, 130.

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use of by both states. The only authority immediately assumed by the United States over the federal district was that conferred upon the three commissioners to acquire lands on the eastern side of the Potomac and to provide buildings for the accommodation of the government of the United States.

The territory ceded by Maryland to the government of the United States formed a part of Montgomery and Prince George's counties, and contained the incorporated town of Georgetown. Each of the counties was governed by a "levy court," which, after 1798, was composed of seven justices of the peace, annually appointed by the governor and council of the state. The levy court adjusted the expenses of the county, including an allowance for the poor and for public roads, and imposed taxes upon the county to pay such expenses; maintained necessary public buildings and bridges; appointed constables and overseers of roads.*

Georgetown was incorporated in 1789 with a mayor, recorder, six aldermen and ten common councilmen. A board of aldermen of six members was appointed by the act of incorporation, and the aldermen were to hold office during good behavior. The recorder was also appointed by the act. All freemen above the age of twenty-one years, who owned visible property within the state above the value of thirty pounds (about eighty dollars), and who had resided in the town for one year were empowered to assemble and elect ten common councilmen, who were also to continue in office during their good behavior. The mayor was annually elected from among the aldermen, by a vote of the mayor, recorder, aldermen and common councilmen. Vacancies among the aldermen were to be filled in a similar manner from among the members of the common council. Vacancies among the councilmen were filled by election in the same manner as councilmen

* Kilty's Laws of Md., 1794, ch. 53; 1798, ch. 34.

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were first chosen.⁴ This autocratic organization was changed by an act of 1797, which provided that the members of the common council should be elected for two years only, and that any citizen of Georgetown might be chosen mayor.⁵ The mayor, recorder, and aldermen each had the jurisdiction of justices of the peace, and any three of them together were empowered to hold a Mayor's Court.

The territory ceded by Virginia to the government of the United States formed a part of Fairfax County and contained the incorporated town of Alexandria. The county was governed by a county court, composed of justices of the peace appointed by the governor of Virginia, with the advice of his Privy Council. In case of vacancies among the justices, new appointments were made upon the recommendation of the county court itself. The county court held monthly and quarterly sessions for the transaction of judicial and other business. It annually made up an account of the expenses of the county, and assessed taxes, had charge of the laying out and repair of roads, and of the construction and repair of bridges and public buildings. The county court divided the county into a convenient number of districts, not exceeding four, and within each such district the freeholders and housekeepers triennially elected three persons to serve as overseers of the poor. The overseers from all of the districts within the county annually met together, made regulations for the care of the poor of the county, and levied the poor rates, or taxes for the support of the poor.⁶

The town of Alexandria was organized in 1749 by virtue of a law passed by the legislature of Virginia in 1748; and was incorporated in 1779. Under the charter of 1779, the freeholders

⁴ Kilty's Laws of Md., 1789, ch. 23.

⁵ *Ibid.*, 1797, ch. 56.

⁶ Va. Collection of acts in force (1794), 29, 91, 189, 261; Constitution, article 15.

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and housekeepers annually elected by ballot twelve freeholders and inhabitants of the town. The twelve persons so selected met within one week after their election, and chose from among themselves a mayor, a recorder, and four aldermen; the remaining six persons formed a common council. For the passage of ordinances or regulations the mayor, recorder, aldermen, and members of the common council met together. The mayor, recorder, and aldermen each had the jurisdiction of justices of the peace, and together they had power to appoint constables, surveyors of streets and highways, and all other officers who might be necessary, and to hold a monthly court.¹

One of the earliest acts of Congress relating to the District of Columbia, that of February 27, 1801, provided that the laws of Virginia should remain in force in that part of the District of Columbia ceded by Virginia, and that the laws of Maryland should remain in force in that part of the District of Columbia ceded by Maryland; and erected the District into two counties, one comprising the territory lying east of the Potomac, to be called the County of Washington; the other, lying west of the Potomac, to be called the County of Alexandria.² This action maintained the separation between the Maryland and Virginia portions of the District of Columbia, and continued in operation the several governments described above, until Congress should see fit to change them. The incorporation of the city of Washington by Congress on May 3, 1802, increased the number of governing bodies in the District of Columbia to five: (1) The county of Alexandria. (2) The town of Alexandria. (3) The county of Washington. (4) The town of Georgetown. (5) The city of Washington. It will be well to trace separately the history of each of these bodies.

¹ Hening, Statutes at Large of Va., X, 172; XI, 50, 314.

² U. S. Statutes at Large, II, 103.

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The County and Town of Alexandria, 1801-1848.—In 1801, shortly after the erection of two counties in the District of Columbia, an act of Congress provided that the magistrates to be appointed for the District of Columbia should, within their respective counties, exercise the same powers, perform the same duties, and receive the same fees and emoluments as the levy courts or county commissioners of the state of Maryland. This left almost unchanged the government of Alexandria county, for the levy courts of Maryland had practically the same powers as the county courts of Virginia. Later acts of Congress, however, almost entirely restored the application of Virginia law, and the justices of the peace of Alexandria county exercised the powers with which they had been vested by the laws of Virginia on the first Monday in December, 1800. The form of government remained practically unchanged as long as Alexandria county continued to be a part of the District of Columbia. Before 1801 justices of the peace had been appointed by the governor of Virginia; after that date they were appointed by the President of the United States, and continued in office for a term of five years.*

By an act of Congress of February 25, 1804, practically a new charter was provided for the town of Alexandria. By this charter the town was divided into four wards, and the common council was composed of four persons annually elected from each ward by the votes of the free white male freeholders of full age, who had been housekeepers therein for the period of three months, and who had paid public taxes therein. The common council annually elected a mayor. This charter remained almost unaltered until 1843 when provision was made that the mayor of the town should be annually elected by the citizens who were qualified to vote for members of the common council.**

* U. S. Statutes at Large, II, 115, 194; III, 318, 415, 743; IV, 43.

** *Ibid.*, II, 255; IV, 162; V, 599.

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The United States government did not find occasion to use for public buildings or for other similar purposes the territory ceded by Virginia to form a part of the District of Columbia. The people of the town and county of Alexandria were from the first dissatisfied because of their failure to reap any advantages from their inclusion within the federal district. No benefits accrued to them from the connection, but on the other hand they were subject to the hardship of disfranchisement, except with reference to their local affairs, and, because Congress had not had time to give to a systematic revision of their laws, they were still subject to the somewhat antiquated laws which were in force in Virginia in 1800. In the early part of 1846 petitions were presented to Congress asking that the town and county of Alexandria be retroceded to Virginia. At the same time petitions were presented to the General Assembly of the State of Virginia, which immediately passed an act offering to accept the territory if Congress should retrocede it to Virginia.¹¹ The congressional committee to whom the petitions were referred reported favorably upon them,¹² and Congress by an act of July 9, 1846, retroceded to Virginia all that part of the District of Columbia lying west of the Potomac river, the question of retrocession being first submitted to a vote of the citizens of that territory. A majority of the people voted in favor of retrocession, and by a presidential proclamation of September 7, 1846, the town and county of Alexandria ceased to form a part of the District of Columbia.¹³

¹¹ Laws of Virginia, 1845-46, p. 50.

¹² 29th Congress, 1st session, House report 325.

¹³ U. S. Statutes at Large, IX, 35, 1000. See also Phillips *v.* Payne, 92 U. S. 130. By this cession the area of the District of Columbia was reduced to 70 square miles, of which ten are covered with water. The territory of the District extends to low-water mark on the Virginia shore of the Potomac river.

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County of Washington, 1801-1871.—Until 1812 the county of Washington was governed as a county under the laws of Maryland, with the exception that the justices of the levy court were appointed by the President of the United States rather than by the governor of Maryland.¹⁴ In 1812 a law was enacted by Congress providing that the levy court should be composed of seven members, designated annually by the President of the United States from among the justices of the peace of the county; two of the members of the levy court were to be designated from among the justices residing in that part of the county lying eastward of Rock Creek and outside of the limits of the city of Washington; two, from that part of the county lying westward of Rock Creek, and outside of the limits of Georgetown; and three from Georgetown. This law also relieved the county from the obligation to provide for the poor of the city of Washington, and provided that one-half of the general county expenses, other than those for roads and bridges outside of the limits of Washington and Georgetown, should be borne by the city of Washington; real and personal property within the city of Washington was at the same time freed from the payment of county taxes.¹⁵

In 1848 the membership of the levy court was increased to eleven, the four additional members to be appointed from the city of Washington.¹⁶ In 1862 Congress repealed the requirement that members of the levy court should be appointed from among the justices of the peace of the county of Washington.¹⁷ By a law of 1863 the levy court was reorganized; from this time until its abolition in 1871 it was composed of nine members, who were appointed by the President of the United States, by and

¹⁴ U. S. Statutes at Large, II, 103, 115.

¹⁵ *Ibid.*, II, 771.

¹⁶ *Ibid.*, IX, 230.

¹⁷ *Ibid.*, XII, 384.

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with the advice and consent of the Senate, for three years, and one-third of whom retired annually. Of these members three were residents of the city of Washington, one of Georgetown, and five were residents of that portion of the county of Washington lying outside of these cities.¹⁸ By laws of 1862 and 1864 the levy court was required to appoint commissioners of primary schools to have control over the public schools of that part of the county lying outside of the cities of Georgetown and Washington; the levy court was also required to levy taxes for the support of schools.¹⁹

Town of Georgetown, 1801-1871.—Georgetown was governed under the laws of Maryland until Congress provided it with a new charter by an act of 1805. By this act a board of common councilmen of eleven members was annually elected by the free white male citizens of full age who had resided within the town for twelve months and had paid a tax to the corporation, and five persons were elected by the same voters to serve as aldermen for a term of two years. The Board of Aldermen and Board of Common Councilmen annually by joint ballot chose a mayor and a recorder.²⁰

This charter remained practically unchanged²¹ until 1830, when provision was made that the mayor should be biennially elected by the citizens qualified to vote for aldermen and common councilmen. By a law of 1856 Congress authorized the town to levy an annual poll tax of one dollar for school purposes, and granted the right to vote to every free white male citizen who had attained the age of twenty-one years, had resided within the

¹⁸ U. S. Statutes at Large, XII, 799; XIII, 193.

¹⁹ *Ibid.*, XI, 33; XII, 394; XIII, 187.

²⁰ *Ibid.*, II, 332. See also *Ibid.* II, 195, sec. 11.

²¹ *Ibid.*, II, 537.

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limits of the town for one year, and had paid the school tax for the year preceding the one in which he desired to vote."²²

A law of 1826 defined the respective powers of the county of Washington and the town of Georgetown. Georgetown was required to contribute one-fourth part of the expenses incurred on account of the orphans' court, the office of coroner, and the jail; and one-half of the expenses of opening and repairing roads in the county of Washington, west of Rock Creek and leading to Georgetown. Georgetown supported its own poor, and property within the town was exempt from county taxes.²³

City of Washington, 1802-1871.—By the law of July 16, 1790, establishing the seat of government on the Potomac, Congress empowered three commissioners to purchase land and provide buildings, but did not confer upon them any governmental authority. The State of Maryland, however, by an act of December 19, 1791, authorized these commissioners to appoint a clerk for the recording of deeds, and gave them power to license the building of wharves, to regulate the unloading of vessels, to make building regulations and provide penalties for their violation, and to grant licenses for the retailing of liquors within the limits established for the city of Washington.²⁴ The board of commis-

²² U. S. Statutes at Large, IV, 426; XI, 32.

²³ *Ibid.*, IV, 183.

²⁴ Maryland laws, 1791, ch. 45; 1792, ch. 59; 1793, ch. 58. American State Papers, Miscellaneous, I, 219. By the deeds of trust made by the original owners of the land where the city of Washington is located, it was provided that all transfers or conveyances of this land should be "subject to such terms and conditions as shall be thought reasonable by the President for the time being, for regulating the materials and manner of the buildings and improvements on the lots generally in the said city, or in particular streets or parts thereof, for common convenience, safety, and order." By virtue of the power contained in this deed, President Washington, on October 17, 1791, issued the first building regulations for the city of Washington. The early building regulations issued by the Presi-

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sioners was abolished by an act of May 1, 1802, and its powers were conferred upon a superintendent appointed by the President of the United States.* At almost the same time, however, the city of Washington was established by Congress with a regular municipal government.

By the act of May 3, 1802, which was the first charter of Washington, the city was divided into three wards. A council of twelve members was created, who were annually elected by ballot on a general ticket, by the free white male inhabitants of full age who had resided in the city for twelve months and who had paid taxes therein within the year preceding the election. The twelve councilors chose from among themselves five members to form a second chamber. The mayor of the city was annually appointed by the President of the United States. The mayor appointed all other officers of the corporation. Ordinances passed by the council were submitted to the mayor for his approval, but if he should veto them, they might be reconsidered and passed by votes of three-fourths of the two branches of the city council. An act of 1804 changed the organization of the city council by providing that each chamber should consist of nine members, the members of the two chambers to be chosen annually on separate ballots.*

The charter of 1802 as amended in 1804 was by the terms of the law of 1804 continued in force for a period of fifteen years, but it was materially altered in 1812. As organized by the law of 1812, the corporation was composed of a mayor, a board of aldermen, and a board of common council. The board of aldermen consisted of eight members, elected for a term of two years,

dent and by the commissioners are printed in Burch's *Digest of the Laws of the City of Washington*, 326-330.

* U. S. Statutes at Large, II, 175.

* *Ibid.*, II, 195, 254.

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two from each of the four wards into which the city was now divided. The members of the board of aldermen were divided into two equal classes, and one-half of them retired each year. The board of common council was composed of twelve members, three being elected from each ward for a term of one year. The mayor was annually elected by joint ballot of the common council and the board of aldermen. The powers of the corporation were extended. The elective franchise continued to be restricted to white male citizens who paid taxes.["] No person was eligible as an alderman or as a member of the common council unless a free white male citizen of the United States, more than twenty-five years of age, a resident of the city for one year and a freeholder therein, and a resident of the ward for which he should be elected. The mayor was required to be thirty years of age, and a resident of the city for the two years immediately preceding his election.

An entirely new charter was enacted in 1820, to continue in force for a term of twenty years, or until Congress should otherwise provide. The most important change made in the governmental organization by this charter was that by which the mayor became elective biennially by the persons qualified to vote for members of the common council and board of aldermen. All other officers were appointed by the mayor, with the consent of the board of aldermen.["]

The charter of 1820 was slightly amended in 1824 and 1826,["] but remained almost unaltered until 1848 when it was amended and continued in force for another twenty-year term. By the act of 1848 the offices of assessor, register, collector, and surveyor of the city, were made elective, and the suffrage was extended to all free white males of twenty-one years of age who were sub-

["] U. S. Statutes at Large, II, 721.

["] *Ibid.*, III, 583.

["] *Ibid.*, IV, 75, 186.

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ject to the school tax of one dollar per annum, and who had paid such tax and all other taxes upon personal property legally assessed against them.”

The charter was again amended in 1864 and 1865.^{**} By the terms of the law of 1848 the charter would have expired in 1868, but in that year it was extended for one year, and the mayor, board of aldermen, and board of common council in joint session were authorized to elect for the succeeding year all officers whose appointments had previously been vested in the mayor.^{**} This limitation upon the mayor’s power was, however, repealed in the succeeding year,^{**} and the amended charter remained in force until the city of Washington was merged with the other parts of the District of Columbia as organized with a territorial government in 1871.

An important change was made in the charters of both Georgetown and Washington by the law of January 8, 1867, which provided that male persons above the age of twenty-one years should have the right to vote at elections in the District of Columbia, without any distinction on account of color or race, and thus established universal male suffrage, whereas the right to vote had previously been limited to white male taxpayers.^{**} A law of March 18, 1869, repealed the provisions of the charters of Georgetown and Washington which restricted to white persons the right to hold office.^{**}

^{**} U. S. Statutes at Large, IX, 223.

^{**} *Ibid.*, XIII, 68, 407, 434.

^{**} *Ibid.*, XV, 61.

^{**} *Ibid.*, XVI, 8.

^{**} *Ibid.*, XIV, 375.

^{**} *Ibid.*, XV, 61; XVI, 3.

CHAPTER III.

GOVERNMENT OF THE DISTRICT OF COLUMBIA, 1871-1878.

The government of the city of Washington before the civil war was conservative, and little effort was made to improve the city and to beautify it to an extent that would make it a creditable capital of a great and rapidly growing nation. The city government was not entirely responsible, however, for the bad appearance of the city, for to carry out an extensive system of improvements would have imposed upon it too heavy a burden for it to bear, and Congress showed itself unwilling to share in the expense of making Washington a city worthy of the country whose capital it was. The most rapid growth of the city began with the civil war, and with the war came problems with which the municipal government found it impossible to cope.

The impotence of the local government under the new conditions first appeared clearly in the service of police. Although the police control of the federal armies stationed in or near Washington was largely exercised by military patrols, Congress thought it necessary in August, 1861, to combine the cities of Washington and Georgetown and the county of Washington into a "Metropolitan Police District." Five commissioners of police, appointed by the President of the United States, for a term of three years, together with the mayors of Georgetown and Washington, formed a board of police commissioners, to which was given entire control of the police force of the District of Columbia. Of the five appointed commissioners three were ap-

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pointed from the city of Washington, one from Georgetown, and one from the county at large.

One of the most important changes made by Congress in the government of the several municipal corporations of the District of Columbia was that effected by an act of January 8, 1867, which extended the right of suffrage to male persons of the age of twenty-one years and upwards, born or naturalized in the United States, who had been residents of the District of Columbia for one year, without any distinction on account of color or race. During and immediately after the civil war Washington had served as a city of refuge for negroes from all parts of the South; a large proportion of this colored population was without means of support, and was dependent upon public charity. The war had also attracted to Washington a large number of whites who were either a charge upon the public, or an addition to the criminal classes. These conditions made local government more difficult, and the difficulties were now augmented by the abolition of property and race qualifications for voting. The first municipal election of Washington in which negroes voted was that of 1868.

In the early part of 1870 a movement began in favor of establishing a centralized government for the District of Columbia. This movement was successful, and by an act of February 21, 1871, the separate governments of the cities of Washington and Georgetown and of the county of Washington were abolished, and a government for the District established, similar in organization to that provided for the territories of the United States.

By this act the executive power was vested in a governor, appointed by the President of the United States, with the approval of the Senate, for a term of four years. The governor was given a veto upon all legislation, such veto to be overcome by the votes of two-thirds of all members of the council and house of

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delegates. He was empowered to commission all officers appointed or elected to offices of the District government and to see that the laws should be faithfully executed. A secretary, appointed for the same term and in the same manner as the governor, was to take the place of that officer in case of the latter's absence or disability.

Legislative power was vested in a legislative assembly composed of a council and a house of delegates. The council was composed of eleven members, of whom two were to be residents of Georgetown, and two of the county of Washington outside of the limits of the cities of Washington and Georgetown, all to be appointed by the President of the United States, with the approval of the Senate. In the first appointment five members of the council were to be appointed for one year, and six for the term of two years; thereafter all members of the council were to be appointed for two years. The house of delegates was composed of twenty-two members elected for a term of one year. For the appointment of members of the council eleven districts of as nearly equal population as possible were created and for the election of members of the house of delegates twenty-two such districts were formed. Members of the two legislative bodies were to reside in the districts for which they were appointed or elected. After the first meeting of the legislative assembly none of its sessions were to continue longer than sixty days. The suffrage was exercised by all male citizens of the United States above the age of twenty-one years who had resided in the District for one year, and the legislative assembly was forbidden to limit the right to vote in any way. The two branches of the legislative assembly were given equal powers. No laws were to take effect until thirty days after their passage unless, in case of emergency, two-thirds of the council and house of delegates should direct otherwise.

The financial powers of the new government were definitely

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limited. No money was to be drawn from the treasury except in pursuance of an appropriation made by law. The aggregate amount of the annual appropriations was not to be increased without a vote of two-thirds of the members elected or appointed to the two houses of the legislature, nor to exceed the amount of revenue authorized to be raised within the same time. All appropriations were to end with the time for which they had been voted. The debt was not to exceed five per cent of the assessed valuation of the property of the District, unless laws authorizing such excess and providing taxes for its payment should have been submitted to the people, and have received a majority of the votes cast for members of the legislative assembly. The taxing power of the new government was limited to a rate of two per cent of the cash value of property, but it was empowered to levy special taxes in particular sections, wards, or districts, for their particular local improvements. No money could be borrowed, nor stocks or bonds issued without the authority of an act of the legislative assembly passed by a vote of two-thirds of the members of each house.

The voters qualified to elect members of the house of delegates were authorized to choose a delegate to the House of Representatives, to serve for two years, with the same rights and privileges as delegates from the territories.

It was made the duty of the legislative assembly to maintain a system of free schools, the money therefor to be appropriated "for the equal benefit of all the youths." A Board of Health of five members was appointed by the President, with the approval of the Senate.

The most important organ of the new government was the Board of Public Works, which consisted of the governor as president, and of four persons appointed by the President of the United States, with the approval of the Senate, of whom one was to be a civil engineer and the others citizens and residents of the

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District of Columbia. One member of the board was to be a resident of Georgetown, and one a resident of the county of Washington outside of the cities of Georgetown and Washington. The members of this board were to hold office for four years, unless sooner removed by the President of the United States.

The Board of Public Works had entire control of and power to make all regulations which it considered necessary for keeping in repair the streets, avenues, alleys, and sewers of the city, and all other works which should be entrusted to its charge by the legislative assembly or by Congress. The Board disbursed upon its own warrants all money appropriated by the United States or by the District of Columbia, or collected from property holders in pursuance of law, for the public works of the District, and was authorized to assess upon adjoining property especially benefited by such works, a reasonable proportion of the cost of improvements, not exceeding one-third of such cost, and this assessment was collected as were other taxes.

All contracts made by the Board were to be in writing, signed by the parties making them, and copies of such contracts were to be deposited in the office of the secretary of the District of Columbia. All contracts in which any member of the Board should be personally interested were declared to be invalid. An important limitation upon its powers was the provision that the Board should have "no power to make contracts to bind said District to the payment of any sums of money except in pursuance of appropriations made by law, and not until such appropriations shall have been made." The Board was required to submit an annual report to each branch of the legislative assembly, and to furnish copies of such report to the Governor, to be by him laid before the President of the United States for transmission to the two houses of Congress. The Board of Public Works was the most powerful organ of the new government, and the

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history of this government is practically a history of the activities of the Board from 1871 to 1874.

Almost immediately after the organization of the territorial government the Board of Public Works by a letter of June 20, 1871, submitted to the legislative assembly an elaborate plan of public improvements, to be undertaken in all parts of the District of Columbia at an expense to the public treasury of over four million dollars. The total estimated cost of the proposed improvements aggregated over six million dollars, one-third of which was to be assessed upon private property for the benefits to be received from such improvements. This plan was approved by the legislative assembly and on July 10, 1871, four million dollars were appropriated to the use of the Board of Public Works for the construction of public works, "as fully as may be practicable and consistent with the public interest, in conformity with the plan of improvements submitted to said Legislature by the Board of Public Works of said District..." Section two of this appropriation act provided that "in no case shall the said board enter into a contract for any work or improvement the cost of which shall exceed the amount estimated therefor in its aforesaid plan..." The money for these improvements could only be raised by the issue and sale of bonds, and the negotiation of a loan was enjoined by citizens of the District on the ground that the loan would increase the public debt beyond five per cent of the assessed valuation of property, and should therefore be submitted to a vote of the people. The legislative assembly made an appropriation of five hundred thousand dollars for the conduct of work until the injunction should be dissolved, and as a precautionary measure for the event of the injunction being sustained, passed a law on August 19, 1871, submitting to a vote of the people the plan of issuing four million dollars in bonds to raise money for public improvements. This act was approved by an overwhelming majority of the

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people, but was intended for application only if the first loan act should be declared invalid by the courts. The courts sustained the first act and the subsequent act of August 19, 1871, was annulled by Congress in 1872. The first report of the Board of Public Works, made after its earlier actions had triumphantly sustained the scrutiny of a congressional investigation, contained the statement that "the Board have kept within the requirements of the organic law, directing all contracts to be made in pursuance of and within the limits of appropriations made by law, and in no case have they exceeded their authority in this respect..." This statement may have been true at the time when it was made, but later developments clearly show that the board did not long continue to remain within the letter of the law.

Two memorials presented to Congress in January and February, 1872, by certain citizens of the District of Columbia, charged the Board of Public Works with extravagance, violation of law, and corruption. After an investigation extending over ninety days a congressional committee reported that it found no evidence of corruption or illegality. While commending the zeal, energy and wisdom of the Board, the majority report did suggest, however, that more work had been undertaken at one time than seemed wise. The majority report held that the law of July 10, 1871, gave the Board discretion, in the making of contracts, to depart from the original plan of improvements. This view was vigorously combatted by two members of the congressional committee, whose minority report held that the Board was guilty of all the charges brought against it. The direct results of this investigation were two actions by Congress, one annulling the loan act of August 19, 1871, which had been approved by the people, and which might have been used for the issuance of four million dollars of additional bonds had it been left in force; the other limiting the debt of the District of Co-

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lumbia to \$10,000,000, unless Congress should otherwise provide. This new debt limit was already nearly reached, for the new government of the District of Columbia inherited a debt of over four million dollars, and had already, by May, 1872, added nearly five million dollars to that amount.

Energy was the fundamental quality of the Board of Public Works, but for a while after the congressional investigation of 1872 we get only occasional glimpses of its work. The Board charged one-third of the cost of improvements against private property benefited thereby, and much hardship and ill-feeling resulted from the application of a fixed rule of this character. In its reports the Board laid special emphasis upon the fact that the United States government owned a large part of the property within the District of Columbia, and urged that it should bear a fair proportion of the burden of improvement. Improvements were made upon and around government property, and the bills therefor were presented to Congress, seemingly with full reliance that they would be paid. By a law of January 8, 1873, Congress appropriated \$1,241,920.92 to pay for such improvements, and at the same time forbade the Board of Public Works to incur further liabilities on behalf of the United States, beyond the amounts previously appropriated by Congress, or to enter into contracts for the improvement of government property, except in pursuance of appropriations already made. Notwithstanding this express prohibition the Board of Public Works in its report of November 1, 1873, claimed an indebtedness of the United States government to the District of over four million dollars, for such improvements.

The arbitrary conduct of the Board toward individuals, the rapidly increasing debt of the District, and the undeniable jobbery prevalent in the letting of contracts at last aroused the people to petition Congress for another investigation into the affairs of the District of Columbia. This petition was granted and

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a joint committee of the two houses was appointed, which met in open session from February 11 to March 27, 1874. From the evidence presented before this committee we may get a clear view of the operations of the Board of Public Works.

On October 9, 1871, the Board chose its vice-president, Alexander R. Shepherd, to be its executive officer, and to him must be ascribed almost all of the credit or blame attached to the subsequent actions of the Board. Shepherd "ultimately came to be, practically, the board of public works and exercised the powers of the board almost as absolutely as though no one else had been associated with him." During the time when the most extensive improvements were being carried on there were no stated times for Board meetings, and few meetings were in fact held; entries in the records purporting to be proceedings of Board meetings were made by the secretary upon the direction of the vice-president, and such entries were not submitted to the approval of the full Board when it did meet.

The treasurer of the Board was the sole disbursing officer of the funds under its control, and there was no check whatever upon his actions. He kept no cash account, and the checks issued by him did not correspond with the amounts which he reported to have been paid. He had the power to draw his checks upon public moneys without the knowledge of any other member of the Board. The auditor's office was also conducted loosely. No record was made of audits by the Board, and it was common for a single member to direct the audit of accounts in the name of the Board. The Board itself had never verified the accounts of the offices of treasurer and auditor.

The original plan of improvements submitted by the Board of Public Works called for an expenditure of over six million dollars; the Board was not bound by all the details of this plan, but without further basis for making contracts it expended or made contracts involving the expenditure of over twelve million dol-

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lars in excess of this sum. These extensive obligations were contracted without legislative authority, and in the face of legal prohibitions. The opinion of the committee was that an attempt had been made to accomplish an extensive and much-needed system of improvements in too short a time. Because of this haste contracts were often let before the details of engineering work, plats and estimates had been properly made, and defective plans had led to the extension of the original estimates. Contracts were let without open competition at a fixed scale of prices for the various classes of work, and were sometimes awarded to persons who did not expect to fulfil them, but who sold them to others at a profit.

By the law creating the Board of Public Works the contraction of any debt which exceeded five per cent of the value of the assessed property within the District of Columbia was required to be submitted to the people, and by an act of Congress of May 8, 1872, the debt of the District of Columbia was specifically limited to ten million dollars. By expedients which sought to evade this restriction the debt had been increased to over twenty million dollars, of which nearly ten million formed the funded debt. The Board had evidently expected to obtain the aid of Congress in the payment of this debt, and in its last report presented claims against the general government which were clearly inaccurate and excessive, in the hope of obtaining a large appropriation. For example, it asked Congress to pay as its share of the cost of the sewerage system not yet completed, an amount in excess of the total cost of the system when complete.

The Board of Public Works had done a tremendous amount of work within a short time; it had changed the whole appearance of the city of Washington—in fact it had practically created a beautiful city out of a straggling, dirty, and mean-looking town. For this transformation all credit is due to the Board of Public Works and to Alexander R. Shepherd, its moving spirit.

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Their plans were conceived in a broad and wise manner, and in the execution of such plans no corruption or dishonest practices were proven against the members of the Board.

On the other hand the plans of the Board as executed were beyond the pecuniary means at the Board's disposal and its business management was poor. When all the activities of the government of the District of Columbia from 1871 to 1874 are taken into consideration, it must be admitted that that government proved a failure. In 1871 the District was solvent; in 1874 its treasury was empty, its resources pledged for work yet to be done, and there was no means by which it could extricate itself from its financial difficulties.

The District of Columbia was bankrupt, and the committee which had investigated its affairs recommended what was practically the appointment of receivers to conduct its affairs and to settle its financial obligations. The bill submitted for this purpose by the select committee was adopted by both houses of Congress and became law on June 20, 1874.

The existing government was abolished. Governor, secretary, legislative assembly, and board of public works disappeared; the delegate in the House of Representatives was withdrawn, but the delegate then serving was permitted to continue for the term for which he had been elected. Three commissioners, appointed by the President of the United States were vested with all powers formerly exercised by the governor and board of public works, but were strictly forbidden to make any contract or incur any obligation "other than such contracts and obligations as may be necessary to the faithful administration of the valid laws enacted for the government of said District, to the execution of existing legal obligations and contracts, and to the protection or preservation of improvements existing, or commenced and not completed at the time of the passage of this act." The commissioners were further forbidden to anticipate taxes in any

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way. An officer of the Engineer Corps of the United States Army was detailed by the President of the United States to have control of all public improvements.

The first and second comptrollers of the United States Treasury were constituted a board of audit to examine and audit for settlement all of the unfunded or floating debt of the District of Columbia or of the Board of Public Works. All claims audited and approved were to be funded into guaranteed bonds running for fifty years and paying 3.65 per cent interest.

The government thus established had the difficult task of carrying out all unfinished contracts and of settling the debts of an administration the accounts of which had not been well kept. Its action did not escape the congressional investigation which seemed to be the order for everything connected with the District of Columbia during this period. In a report presented on June 26, 1876, a minority of the House Committee on the District of Columbia urged that the investigation had shown an illegal extension of contracts and assumption of new obligations by the District under the commissioners, but the majority of the committee reported that no illegal extensions of contracts had been made. The board of audit was abolished by a joint resolution of March 14, 1876, which also repeated the provision that no increase should be made in the existing debt of the District of Columbia. Much of the feeling of distrust regarding the commissioners and the board of audit probably resulted from a lack of knowledge as to the state of the outstanding contracts of the territorial government when it was abolished, and from uncertainty regarding the real indebtedness of the District.

When the government by commissioners was created it was considered merely a temporary expedient. The act creating this government provided for the appointment of a joint select committee to prepare a suitable form of government for the District

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and to report to Congress drafts of statutes to carry its recommendations into effect. The committee was to report to Congress on the first day of the next session, and was further required to submit a statement as to what portion of the expenses of the District should be borne by the government of the United States.

This committee reported to Congress on December 7, 1874, an elaborate bill of over two hundred pages. A board of regents of three members was to be appointed by the President and was to constitute a department of the general government. Under the regents were to be bureaus, each with an appointed board at its head, except that the board of education was to be composed partially of appointed and partially of elected members. All local taxes were to be paid into the federal treasury, and all payments were to be made by the Treasurer of the United States, upon appropriations made by Congress. This bill was considered for a time but was soon laid on the table. The bill led, however, to an interesting debate. Senator Morton desired that the regents or commissioners be made elective, and asserted that the bill was aimed at negro suffrage; he contended that the federal government could not afford to admit by its actions that negro suffrage had proven a failure. In his opinion the defects of the territorial government did not arise from its elective portion. This statement is to an extent true. The appointed board of public works was the strongest organ of the territorial government, and its abuse of power was the cause of the dissolution of that government. But it is also true that the board of public works controlled elections by means of contracts and of laborers engaged in work under its control, and thus prevented the house of delegates from serving as a check upon its actions; in this last matter use was made of the dependent negro class. Senator Bayard contended that negro suffrage was responsible for the evils of the abolished government, and that the

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people of the District were willing to be disfranchised in order to escape the repetition of such conditions.

Another joint select committee to prepare a suitable form of government for the District of Columbia was appointed by virtue of a resolution of the two houses passed in August, 1876. This committee reported in December of the same year a bill providing for the government of the District by three commissioners, one to be appointed by the President, one by the House of Representatives, and one by the Senate. The commissioners were to submit estimates to Congress, which should appropriate forty per cent of the amount of expenditures approved by itself. The commissioners were also to be empowered to draft and submit to Congress laws desired for the harmonious working of the District government. This bill was made a special order for January 4, 1877, but was not brought up during the session, probably because of the time consumed in determining the contested presidential election of 1876.

There was practically no further consideration of the matter until the second session of the forty-fifth Congress; on February 13, 1878, Mr. Blackburn reported to the House from its Committee on the District of Columbia a bill for the permanent government of the District. This bill also provided for three commissioners, one chosen by the House, one by the Senate, and the third appointed by the President of the United States from the Engineer Corps of the United States Army. The bill provided for an advisory council of twenty-four members, to be chosen by all males of twenty-one years of age who had been residents of the District for three years. This council was not to have power to enact laws, but its approval was to be required to all contracts, assessments of taxation, and estimates of expenditures, and to all appointments to important offices. This bill was at first rejected by the House, but was reconsidered, amended, and passed. The Senate struck out all of the House bill except

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the enacting clause, and passed an entirely new bill. In conference committee a bill was agreed upon not very different from that passed by the Senate, and the act of June 11, 1878, was passed; this act still remains the organic law of the District of Columbia, although it has undergone many alterations.

CHAPTER IV.

THE FEDERAL GOVERNMENT AND THE DISTRICT OF COLUMBIA.

Constitutional Status of the Federal District.—It will be of value to discuss briefly the position of the District of Columbia with reference to the government of the United States. The constitutional status of the federal district is peculiar in that it is different from the position of both the States and the territories. The District is not a State in the sense in which that term is used in the constitutional clause giving to the federal courts jurisdiction in suits between citizens of different states,¹ but the phrase “States of the Union” used in an international agreement has been held to include the District of Columbia;² and should a case arise the District would probably be held to be a “State” as that term is used in the fourth article of the federal constitution.³

The District of Columbia is assimilated to the States in that it is entitled to the benefit of the constitutional limitations placed upon the legislative power of Congress, while such limitations do not apply to the territories unless extended to them by Congress.⁴ Mr. Justice Brown in the case of *Downes v. Bidwell* seems to have stated the present view of the Supreme Court of

¹ *Hepburn v. Ellzey*, 2 Cranch, 445; *In re Commonwealth of Massachusetts*, 197 U. S. 482.

² *Geofroy v. Riggs*, 133 U. S. 258.

³ 6 Opinions of the Attorney-General, 304.

⁴ For a discussion of the constitutional status of territories, see chapter XIV of Willoughby's *American Constitutional System*.

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the United States as to the constitutional position of the District of Columbia: "This District had been a part of the States of Maryland and Virginia. It had been subject to the Constitution, and was a part of the United States. The Constitution had attached to it irrevocably. There are steps which can never be taken backward. The tie that bound the States of Maryland and Virginia to the Constitution could not be dissolved, without at least the consent of the federal and state governments to a formal separation. The mere cession of the District of Columbia to the federal government relinquished the authority of the states, but it did not take it out of the United States or from under the aegis of the Constitution. Neither party had ever consented to that construction of the cession. If, before the District was set off, Congress had passed an unconstitutional act, affecting its inhabitants, it would have been void. If done after the District was created, it would have been equally void; in other words, Congress could not do indirectly by carving out the District what it could not do directly. The District still remained a part of the United States, protected by the Constitution." It is now well established that the District of Columbia is a part of the "United States," using that term in its narrower sense. (In a number of important decisions the Supreme Court has held that the guarantees of civil rights contained in the federal constitution and its amendments are applicable to the District of Columbia.)

* In *Downes v. Bidwell* all of the justices, while agreeing upon no other point, united in agreeing that the District of Columbia is an integral part of the United States. 182 U. S. 261, 292, 353. *Loughborough v. Blake*, 5 Wheat., 317.

* *Callan v. Wilson*, 127 U. S. 540; *Capital Traction Company v. Hof*, 174 U. S. 5. If the view stated above is correct the act of Congress of 1871 extending the constitution over the District of Columbia was an act of supererogation. 16 Statutes at Large, 426.

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On the other hand the position of the District of Columbia is similar to that of the territories in that neither has any share in the government of the United States, and in that both are subject to Congress as a supreme legislative power. The District of Columbia has no share in the election of the President of the United States and of members of the Senate and House of Representatives. It has no share even in its own government unless Congress should see fit to confer powers of self-government upon it, and since 1874 no powers of self-government have been granted to the people of the District of Columbia.

Although similar in some respects both to the States and to the territories, the District of Columbia is neither State nor territory, but is a federal municipal corporation, occupying the same position with reference to the government of the United States as that occupied by state municipal corporations with reference to the state governments.¹

Congress and the District of Columbia.—Under the federal constitution Congress has power "to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States." In as much as Congress has entire control over the local affairs of the District of Columbia and has only limited control over affairs within the States, the question has frequently arisen whether that body does not legislate in two different capacities: (1) By virtue of its power to legislate over the States in certain enumerated cases. (2) By virtue of its power to legislate over the federal district in all cases whatsoever. Such a distinction is really not tenable, because Congress in legislating for the District of Columbia often acts as a na-

¹ *Stoutenburgh v. Hennick*, 129 U. S. 141; *Metropolitan R. R. Co. v. District of Columbia*, 132 U. S. 1.

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tional legislature, and in such cases its laws for the District are as binding outside of the District as within it.* However, it is true that when Congress legislates with reference to affairs purely local to the District, such laws have no effect outside the territorial limits of the District; should Congress, in passing such a law, attempt to make it effective within a State, the law would unquestionably be held unconstitutional, unless it also came within one of the general powers conferred upon Congress with reference to the whole United States; to hold otherwise would be to grant Congress unlimited power within the States. For example, if in the case of *Cohens v. Virginia*, Congress had specifically granted to the city of Washington power to sell lottery tickets in the States, the Supreme Court of the United States could hardly have upheld such an act of Congress as in force in States by whose laws the sale of lottery tickets was forbidden. By uniform practice Congress has interpreted its power of local legislation over the federal district as a power to be exercised within the limits of the District of Columbia; and when legislating for the District it usually does so in express terms.^{*}

It is an accepted legal principle that a legislative body may not delegate or grant away its powers, but there is an exception to this principle by which power over local matters may be granted to local authorities. So in the District of Columbia

* *Cohens v. Virginia*, 6 Wheat., 284, 296-298, 335-339, 429, 434-437, 441-447; *Loughborough v. Blake*, 5 Wheat., 317; *Grether v. Wright*, 75 Fed. 742. See also 17 Opinions of the Attorney General, 587. A clear illustration of the larger power possessed by Congress over the District of Columbia may be seen in the cases of *Howard v. Illinois Central R. R. Co.*, 207 U. S. 463, 500, 541, and *Hyde v. Southern Railway Co.*, 31 App. D. C. 466; and in the federal Employers' Liability act of April 22, 1908, U. S. Statutes, 1907-08, part I, p. 65.

* *United States v. Crawford*, 6 Mackey, 319.

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Congress may grant and has granted to the Commissioners power to adopt local police, health, building, and other regulations. Congress can delegate only its powers which relate to purely local matters, and must exercise directly its legislative powers with reference to subjects of general interest, such as contracts, titles of real property, corporations, commerce, and marriage. Congress is, and under the constitution must remain the supreme legislative power of the District of Columbia.¹⁰ The Commissioners and other bodies exercising subordinate legislative power have only such powers as Congress may see fit to confer upon them. Under the constitution Congress cannot confer general powers of legislation upon the District; but it has not seen fit even to confer the full powers of a municipal legislature upon the present District government, and now occupies toward the District of Columbia the twofold relation of a general legislature and of a municipal council. Laws regarding general matters must emanate from Congress, but so also under the present organization must laws authorizing the extension of streets. No tax may be levied and no money may be expended by the government of the District of Columbia without the specific authorization of Congress. In spite, therefore, of the somewhat extensive legislative powers vested in the Commissioners, Congress is in a very real sense the municipal council of the District of Columbia.¹¹

The number of members in the House of Representatives and Senate is so large that these bodies are unable to conduct all of their business in full sessions, but find it necessary to appoint numerous committees to which are referred bills introduced in the respective houses. The committees of the House of Repre-

¹⁰ *Roach v. Van Riswick, MacA. and M.*, 171; *Stoutenburgh v. Hennick*, 129 U. S. 141.

¹¹ *Coughlin v. D. C.*, 25 App. D. C. 251; *United States v. Ross*, 5 App. D. C. 253.

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sentatives are appointed by the Speaker of that body. A rule of the Senate provides that its committees shall be appointed by ballot. However, the lists of Senate committee members are in fact made up by committees from the Senate caucuses of the Democratic and Republican parties; the rule with reference to the choice of committees by ballot is then suspended by a vote of the Senate, and the committees are agreed to by the Senate as they have been decided upon by the party caucuses.¹² Because of the fact that senators hold for longer terms than do representatives the important Senate committees change in their membership less frequently than do those of the House of Representatives. On this account the Senate committees are usually more familiar with the matters referred to them and exert a greater influence upon legislation than do the House committees.

Bills may be presented in either house by any member of the house in which they are submitted. A bill introduced in the House of Representatives is immediately referred to the committee having jurisdiction over the subject to which the bill relates. This committee may, in its discretion, ignore the bill entirely, report it to the House with a recommendation that it be passed, or report it with a recommendation that it be rejected; or the committee may draft an entirely new bill upon the same subject, and recommend that the House pass such new bill. All members of Congress cannot make a special study of the thousands of bills which are introduced each year, and both the House and the Senate usually do what their committees recommend. A bill favorably reported by a House committee and passed by the House, is then sent to the Senate, where it is immediately referred to the proper Senate committee, and goes through practically the same procedure as in the House. A bill first presented in the Senate would be handled in the same man-

¹² Congressional Record, 59th Congress, 1st session, pp. 537, 538, 544. December 18, 1905.

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ner except that the Senate's action upon it would precede that of the House. It often happens that both House and Senate are in favor of the general provisions of a bill, but do not agree as to some of its terms. For example, a bill passed by the House may then be passed by the Senate with amendments, and the House may refuse to agree to the amendments proposed by the Senate. In such cases a conference committee, composed usually of three members of the House and three members of the Senate, is appointed, and the members of this committee come to an agreement regarding the matter in dispute. The report of a conference committee does not become effective until it is agreed to by both houses, but the House and the Senate almost always agree to the reports of their conference committees. A bill passed by both houses goes to the President for his approval, and if he vetoes it, it does not become a law unless the two houses pass it again by two-third votes.

The constitution provides that "all bills for raising revenue shall originate in the House of Representatives: but the Senate may propose or concur with amendments, as on other bills."¹² Revenue bills are bills that levy taxes, and do not include those which incidentally impose taxes but are intended primarily for a different purpose. So the act providing for a union station in Washington was not a revenue bill, although it provided for special assessments upon property benefited by the erection of the station.¹³ Appropriation bills may originate in either house, but in practice they are always first introduced in and passed by the House of Representatives.¹⁴

In the House of Representatives almost all matters relating to

¹² Article 1, sec. 7, cl. 1.

¹³ *Millard v. Roberts*, 202 U. S. 429; *Twin City Bank v. Nebeker*, 167 U. S. 196.

¹⁴ For an account of the procedure with reference to appropriation bills see page 111.

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the District of Columbia are referred either to the committee on appropriations or to the committee on the District of Columbia. The House committee on appropriations is composed of seventeen members, and has a sub-committee on the District of Columbia which is composed of five members. The House committee on the District of Columbia has nineteen members, and is organized into six sub-committees upon the subjects of the judiciary; ways and means; education, labor, and charities; street railways, streets and avenues; steam railways; and incorporations. The second and fourth Mondays of each month when the House is in session are, when claimed by the Committee on the District of Columbia, set apart by the House for the consideration of matters which that committee may desire to present.

In the Senate almost all matters relating to the District of Columbia, are considered either by the Senate committee on appropriations or by the Senate committee on the District of Columbia. The Senate committee on appropriations is composed of thirteen members, and has a sub-committee on the District of Columbia which is composed of five members. The Senate committee on the District of Columbia is composed of thirteen members, and has eight sub-committees on the subjects of the judiciary; public health, hospitals, and charities; public utilities; education and labor; streets and avenues; excise and liquor legislation; police and fire departments; and incorporations. In the Senate no special time is set apart for the consideration of District matters, but bills are either considered in their order on the Senate calendar, or are called up by the chairman or some other member of the District committee.

The House and Senate committees on appropriations handle the annual appropriation bills, and practically all other matters relating to the District of Columbia are referred to the House and Senate committees on the District of Columbia. Some-

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times, however, bills regarding parks in the District of Columbia are referred by the House and Senate to their committees on public buildings and grounds. Sometimes, also, but infrequently, bills relating to the District of Columbia are referred to still other committees; in the first session of the sixtieth Congress a bill for the regulation of child labor in the District of Columbia was, at the request of the District committee, referred to and considered by the Senate committee on education and labor. In the Senate there is a committee of five members "on corporations organized in the District of Columbia," but this committee now has little or nothing to do, and may be ignored for the purposes of our present discussion.

The larger number of important bills relating to the District of Columbia are drafted by the Commissioners or their subordinates, and are sent by the Commissioners to the chairmen of the House and Senate committees on the District of Columbia, to be introduced by them in their respective houses. It will be of interest to trace the action of Congress upon a typical bill of importance submitted by the Commissioners, assuming here that the bill is first considered by the Senate.¹⁴ Such a bill would be introduced by the chairman of the Senate committee on the District of Columbia, and would be referred to the committee on the District of Columbia as a matter of course. If the bill related to schools it would be referred by that committee to its sub-committee on education and labor. This sub-committee considers the bill and holds public hearings upon it, at which representatives of citizens' associations and any other persons in favor of or opposed to the bill may appear and be heard. After these hearings, the sub-committee, if it thinks proper, reports favorably on the bill to the full committee; and the committee

¹⁴ This is not an attempt to trace precisely the development of any particular bill, but is simply meant to illustrate the steps in the legislative consideration of an important measure.

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usually in such a case reports the bill favorably to the Senate. All the members of the Senate cannot investigate the merits of the bill, and they usually pass the measure upon the recommendation of the committee on the District of Columbia. The three, five, six, or seven men who compose the sub-committee thus control the situation, for the District committee usually adopts their recommendations, and the Senate then adopts the recommendations of the District committee.

The bill as passed by the Senate is then sent to the House of Representatives, and is immediately referred to the House committee on the District of Columbia. The House committee in turn refers the bill to its sub-committee on education, labor and charities. This sub-committee holds public hearings, and, if it thinks proper, recommends that the bill be passed with certain amendments. The House committee adopts this recommendation, and reports the bill to the House with amendments. The House agrees with its committee's report and passes the bill as amended.

The bill is then returned to the Senate, which may agree to the House amendments or disagree to them. If the Senate disagrees, a conference committee is appointed, composed of three members from each house, and the House and Senate conferees are in almost every case of this kind appointed from among the members of the House and Senate committees on the District of Columbia. The members of the conference committee come to an agreement concerning the matters of difference, their report is adopted by the two houses, and the bill as agreed to is sent to the President for approval.

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A great amount of legislation is annually proposed for the District of Columbia. For the year 1905-06, during a long session of Congress, the Commissioners "reported upon bills and resolutions relating to the District of Columbia referred to them for report, according to custom, by the committees of the Senate and House, passing upon 117 Senate bills and 123 House bills.

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Through the chairmen of the Senate and House committees on the District of Columbia the Commissioners presented 65 bills and resolutions for the consideration of Congress."¹¹ For the year 1906-07, during a short session, the Commissioners passed upon 41 Senate bills and 57 House bills, and presented 28 bills and resolutions for the consideration of Congress.

By the presentation of bills through the chairmen of the District committees of the two houses of Congress, by means of their recommendations to the District committees, and through the President's policy of submitting bills to them before approving such bills, the Commissioners have extensive power in connection with local legislation by Congress, but it should be noticed that this power is largely negative in character. They may usually prevent legislation by the expression of their disapproval. Bills drafted by them are, however, often passed, and during the past five years they have succeeded in obtaining the enactment of much important legislation. But, on the other hand, the bills which they submit to Congress are frequently not reported at all by the District committees, and if reported are often so amended as to defeat the objects which the Commissioners have in view. Measures of a character necessary for good administration have been urged year after year without favorable consideration, as has been the subject of introducing the merit system into the District civil service. The system of congressional legislation works badly in great measure because of the want of interest in District affairs upon the part of the great body of senators and representatives. Important legislation to which there is no particular objection often fails simply because of the pressure of other business which affects more closely the interests of the members of Congress.

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¹³ 52d Congress, 1st session, House report 1469; 55th Congress, 1st session, Senate document 185.

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The ordinary committee hearings of Congress frequently take the form of investigations into the administration of the department of the District government affected by the bill under consideration. In their hearings before the House and Senate sub-committees on appropriations the Commissioners and the other officials of the District of Columbia are annually under investigation, and congressional disapproval of their actions may be manifested by withholding appropriations or by altering the character of appropriations. Congressional disapproval is, however, seldom manifested by the withdrawal or alteration of appropriations; usually matters about which there is disagreement are fully discussed in the sub-committee hearings, and if either House or Senate sub-committee disapproves of the Commissioners' actions, an informal expression of such disapproval is effective in changing the policy of the Commissioners. The Senate, by virtue of its power of confirming or rejecting executive appointments to positions connected with the District government, exercises extensive powers which, with reference to the appointment of Commissioners, are referred to more at length in a succeeding chapter.*

The President and the District of Columbia.—In addition to his powers with respect to legislation the President of the United States, acting by and with the advice and consent of the Senate, appoints the two civil Commissioners, the members of the board of charities, the judges of all the courts of the District of Columbia, the United States marshal and the United States attorney of the District of Columbia, the register of wills, and the recorder of deeds. Upon the recommendation of the Attorney-General of the United States, he appoints the trustees of the two reform schools. The President also exercises the pardoning power with reference to all offenses, except those which relate

* See page 74.

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to municipal ordinances or regulations in force in the District of Columbia.

Aside from his appointing power and from his power to remove Commissioners in case of serious malfeasance, the President has no legal control over the administration of the District of Columbia. His official position, however, lends great weight to any recommendations which he may make to the Commissioners regarding the administration of affairs in the federal district. In addition, the civil Commissioners hold office for terms of three years, and often desire reappointments. For these reasons suggestions or recommendations made by the President come almost with the force of commands, and are usually complied with, without question. For example, in June, 1908, when rabies was prevalent in the District of Columbia the Commissioners, who thought the situation could be properly handled by the impounding of dogs, declined to issue an order requiring dogs to be muzzled, but issued such an order without question and without delay when they received a letter from the President suggesting that dogs should be muzzled; "this case was exceptional, it is true, in that some action was necessary to allay the growing popular excitement; a situation might easily arise in which the Commissioners would think it best absolutely to disregard suggestions made by the President.

A President who takes an active interest in the affairs of the District of Columbia may exercise a great influence for good upon the affairs of the local government. Since the present form of government was established in 1878, all of the Presidents have exercised great care in their appointment of District Commissioners, but this alone is not sufficient. President Roosevelt has set an example of what a President may do in addition to his necessary duties. In his annual and special messages he

^a Evening Star, June 17, 1908.

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has urged upon Congress legislation with reference to child labor and the care of dependent children, compulsory education, the establishment of a juvenile court, housing conditions, insurance, and other matters of importance to the District of Columbia. The presidential message of 1904 is especially noteworthy for the amount of attention which it devoted to District affairs. By means of a special investigation of the District government, conducted at his request by Mr. James B. Reynolds, and by the appointment of a commission to investigate housing conditions in Washington, Mr. Roosevelt has stimulated interest in important problems affecting the federal district. He has also lent encouragement to numerous unofficial movements for the improvement of social and charitable agencies within the District of Columbia.

Executive Departments and the District of Columbia.—The government of the District of Columbia and the executive departments of the United States come into close contact with each other. A somewhat detailed account is given in a succeeding chapter of the close financial relations existing between the District of Columbia and the Treasury Department. The Treasury Department also has control over the licensing of establishments in the District of Columbia for the manufacture of viruses, serums, toxins, antitoxins, and other products of a similar character. Banks (other than private banks and banks organized outside of the District), trust companies, and building associations within the District of Columbia are under the direct supervision of the comptroller of the currency. The Public Health and Marine-Hospital Service, which is under the Treasury Department, works in close co-operation with the health department of the District of Columbia. In 1906 this office, at the request of the Commissioners, undertook a careful investigation of the causes of typhoid fever in the District, and published reports upon this subject in 1907 and 1908. In 1908 the Public Health

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and Marine-Hospital Service published an exhaustive study upon the subject of "Milk and its Relation to the Public Health;" this study is to a large extent based upon conditions in the District of Columbia.

The control of the aqueduct, filtration plant, and other works connected therewith, and of the parks of the District of Columbia is exercised by the Chief of Engineers of the United States Army. The construction of bridges and of other important public works is frequently placed under the supervision of the Secretary of War. The militia is, of course, under the direct supervision of the War Department.

A close relationship also exists between the District government and the Department of Agriculture. The Chief of the Bureau of Animal Industry has authority, under an order of the Commissioners, to act as veterinarian of the District, and when acting in this capacity he reports directly to the Commissioners; he also has charge of the meat inspection service for almost all of the meat slaughtered in the District of Columbia, and for all meat brought into the District from other parts of the United States. The Chief of the Bureau of Chemistry is charged with the enforcement of the pure food law within the District of Columbia, and performs his duties in this matter in close co-operation with the District health department. The technical bureaus of the Department of Agriculture also at times render other services to the District government. For example, the Bureau of Chemistry in 1908, at the request of the local authorities, conducted an investigation regarding the quantity of carbon monoxide in the gas used in the District of Columbia.²

The reform schools for boys and girls and the United States jail of the District of Columbia, are under the supervision of the Attorney-General of the United States; and the same officer

² 60th Congress, 2d session, Senate document 641.

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also exercises control over the United States attorney and marshal of the District. Offenders within the District sentenced to imprisonment for more than one year are sent to federal prisons.

The Government Hospital for the Insane, to which insane persons in the District are sent, is a federal institution under the control of the Department of the Interior, as is also the Columbia Institution for the Deaf and Dumb, to which the deaf mutes of the District of Columbia are sent for instruction.

Under a law of May 23, 1908, the Interstate Commerce Commission is given control over the service rendered by street railway companies in the District of Columbia. In their appointments to positions under the District government the Commissioners maintain a merit system, in as far as this is possible without the protection of law, and by an informal arrangement with the Civil Service Commission, that body, when requested to do so by the Commissioners, conducts examinations of applicants for employment in the District service.

By virtue of his general power of supervision over all federal services, the President of the United States may employ federal executive departments or bureaus for the purpose of investigating the operations of the District government. Investigations of this character are not often undertaken, but in 1909 the Bureau of Labor made an investigation of the District building department, under instructions from the President.² Besides the close legal and official relations referred to above, the District of Columbia frequently has the advisory assistance of the scientists and of other employees of the United States government in the solution of its local problems. From this brief discussion it may be seen that the governments of the United States and of the District of Columbia are in many ways so intimately connected that it is often difficult definitely to separate the one from the other.

² 60th Congress, 2d session, Senate document 697.

CHAPTER V.

COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

Appointment and Removal.—The control of the local administration of the District of Columbia is vested in a board of three Commissioners who devote their whole time to the public service. Two Commissioners are appointed from civil life by the President of the United States, acting by and with the advice and consent of the Senate, and hold office for a term of three years from the date of their appointments. Civil Commissioners are reappointed almost as a matter of course if their records have been satisfactory, and if they desire reappointment. The Commissioners appointed from civil life must be citizens of the United States, and residents of the District of Columbia for three years immediately preceding their appointment.

As the third Commissioner the President of the United States details an officer of the Corps of Engineers of the United States Army who has attained at least the grade of captain and has served in the Corps of Engineers for at least fifteen years.¹ It has been customary, but the rule has not always been observed, to retain an engineer officer as Commissioner of the District of Columbia for a period of not more than four years. The President also has authority to detail from the Engineer Corps not more than three officers junior to the Engineer Commissioner to act as that officer's assistants, but only two such officers are now detailed to this service. The senior officer detailed to act as as-

¹ 20 Statutes at Large, 103; 26 Statutes at Large, 1113.

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usually in such a case reports the bill favorably to the Senate. All the members of the Senate cannot investigate the merits of the bill, and they usually pass the measure upon the recommendation of the committee on the District of Columbia. The three, five, six, or seven men who compose the sub-committee thus control the situation, for the District committee usually adopts their recommendations, and the Senate then adopts the recommendations of the District committee.

The bill as passed by the Senate is then sent to the House of Representatives, and is immediately referred to the House committee on the District of Columbia. The House committee in turn refers the bill to its sub-committee on education, labor and charities. This sub-committee holds public hearings, and, if it thinks proper, recommends that the bill be passed with certain amendments. The House committee adopts this recommendation, and reports the bill to the House with amendments. The House agrees with its committee's report and passes the bill as amended.

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¹² D. C. Code, sec. 767.

¹³ 52d Congress, 1st session, House report 1469; 55th Congress, 1st session, Senate document 185.

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sistant to the Engineer Commissioner performs all duties imposed by law upon the Engineer Commissioner, during the absence of such Commissioner.*

In the exercise of its power to grant or refuse its consent to the appointment of Commissioners chosen from civil life the Senate acts in the first place through its committee on the District of Columbia. This committee investigates and reports to the Senate with reference to the fitness of the person nominated for the position, and those opposed to an appointment are usually given an opportunity to be heard before the committee. In several cases the Senate has refused to confirm nominations made by the President.

With the Senate's confirmation of the appointment of civil Commissioners the legislative control over the personnel of the board of Commissioners ceases. The control of the President over the personnel of the board of Commissioners continues, however. The Engineer Commissioner may at any time be relieved of his duties in connection with the government of the District of Columbia, and in several cases officers have been relieved of such duty because of dissatisfaction with their conduct in office.* The power conferred upon the President of appointing the civil Commissioners carries with it the power to remove them if he should see fit, the power of removal being one which the President exercises alone, without the necessity of consulting the Senate.* The Commissioners are required by law to submit an annual report to Congress.

* 26 Statutes at Large, 1113; 28 Statutes at Large, 246.

* Washington Post, January 27, 1888; February 2, 1890.

* In Parsons v. United States, 167 U. S. 335-336, the Supreme Court of the United States suggested that in as much as Congress has exclusive legislative power over the District of Columbia the President would not have authority to remove a District official whose term had been definitely fixed by an act of Congress. However, this question was not before the

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Organization.—The Commissioners annually and at other times when a vacancy may occur choose one of their number as president. The position of president of the board of Commissioners confers no additional power upon the one who occupies it; but the president derives some prestige from the position, and although he enjoys no greater power than the other Commissioners, is looked upon as the official head of the government of the District of Columbia. Official communications are addressed to him and the relations of the Commissioners with Congress and with the President are ordinarily conducted through his hands. The civil Commissioners each receive a salary of five thousand ^{75 00} dollars a year, and are required to give bond in the sum of fifty thousand dollars for the faithful discharge of their duties. The Engineer Commissioner receives compensation in addition to his army pay and allowances sufficient to make his salary five thousand dollars a year.*

Since the establishment of the present form of government partisan control of the affairs of the District has been avoided by means of the appointment upon the board of Commissioners of a representative of each of the great political parties. The Engineer Commissioner is usually a person who has taken little or no interest in political affairs, and as party lines hardly exist in the District of Columbia, the board of Commissioners is really non-partisan in character. Two Commissioners sitting as a board constitute a quorum for the transaction of all business except that of entering into contracts for public improvements.♦

Court, which seems to have overlooked the fact that the appointment and removal of officers is an executive and not a legislative function. No case has ever arisen regarding the power of the President to remove Commissioners of the District of Columbia but it seems clear that the courts would sustain his power if such a case did arise.

*21 Statutes at Large, 460.

♦20 Statutes at Large, 106; 26 Statutes at Large, 1113.

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Administrative Powers.—The board of Commissioners is at the head of the administrative organization of the District of Columbia and exercises general supervision over all departments of the District government. All departments of the District government are required to make annual reports to the Commissioners. For the purpose of facilitating the administration of the various municipal affairs the Commissioners have arranged their duties into three groups and have assigned one of these groups to the immediate supervision of each Commissioner, whose recommendations upon the matters so allotted to him are ultimately acted upon by himself and his colleagues sitting as a board.¹ The allotment of duties among the Commissioners is a fairly permanent one. The Engineer Commissioner has had control of engineering work since the establishment of the present form of government; during the past eight years there has been no alteration of the assignment of duties as between the two civil Commissioners. Each Commissioner has general supervision over the offices assigned to his charge, and the board of Commissioners co-ordinates all of the services performed by the government of the District of Columbia. Although this distribution of duties is informal in that it is not authorized by law, each Commissioner is practically independent with reference to the matters over which he has supervision; matters of minor importance are usually determined upon by the Commissioner having supervision of the department involved, but all questions relating to the general policy of the District government are submitted to the board of Commissioners. However, it rests largely with the individual Commissioner as to what matters relating to the departments under his control shall be submitted to the board, for one Commissioner does not usually attempt to interfere with or to consider matters

¹ Tindall, *Origin and Government of the District of Columbia*, 142.

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which have been assigned to another Commissioner, unless such matters are formally submitted to the board by the Commissioner having supervision over them.

In the assignment of duties the Engineer Commissioner is always given charge of the engineer department,* and of the preparation and recording of all contracts entered into by the District government. The other duties are divided between the two civil Commissioners; under the present distribution, one civil Commissioner has control over charities, the electrical and fire departments, the health department, public schools, insurance, and some other matters of less importance; the other Commissioner has general control over the financial administration, street cleaning, the public library, police department, and some other less important matters.

All contracts entered into by the government of the District of Columbia are drafted by a contract board, composed of the chief clerk of the engineer department and two of his assistants designated by him, this board acting under the supervision and direction of the corporation counsel. All contracts are required to be signed by the Commissioners and to be recorded, and no contract involving more than one hundred dollars is valid unless so signed and recorded.* Any contract in which a Commissioner may be personally interested is void.

The supplies used by the District of Columbia are purchased through a property clerk. The several offices of the District government annually prepare lists of supplies wanted for the succeeding year, and estimates of supplies are then made up from these lists by the property clerk. Bids are called for by advertisement, and annual contracts are entered into by the Commissioners with the lowest responsible bidders for the furnish-

*For the organization and work of the engineer department see page 207.

*20 Statutes at Large, 106. With reference to contracts for public improvements see page 222.

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ing of supplies needed for the year. A supply committee, composed of the property clerk and of representatives of the board of education, board of charities, health, engineer, police and fire departments, opens bids for supplies and recommends to the Commissioners as to what bids shall be accepted. This committee does not, however, act upon bids for supplying construction materials to be used by the engineer department. The Commissioners reserve the right to reject all bids. It is provided by law that no more than the market price shall be paid for any articles and that all bids above the market price shall be rejected.¹⁰ Articles not included in the lists of annual supplies are purchased in the open market from the lowest bidder, as the result of competitive bids. Only non-competitive articles are purchased without being submitted to bids.

With respect to all contracts for materials, the Commissioners may require that contractors give bond for the faithful performance of their contracts, and if the materials exceed five hundred dollars in value the Commissioners must require a bond of not less than twenty-five per cent of the estimated cost of the material.¹¹ Whenever any material or property becomes unfit for use it is sold at auction to the highest bidder, after due advertisement, and the proceeds of such sale are paid into the United States Treasury to the credit of the appropriation out of which the material was purchased.¹²

¹⁰ 34 Statutes at Large, 1148. In 1909 a general supply committee was constituted to supervise the purchase of general supplies by all departments and agencies of the government of the United States. Each department of the federal government, the Smithsonian Institution, Interstate Commerce Commission, Government Printing Office, and the District government are represented on this committee. However, the appointment of this committee will probably make little if any change in the methods employed by the District government for the handling of supplies.

¹¹ 33 Statutes at Large, 704; 34 Statutes at Large, 546.

¹² 22 Statutes at Large, 470.

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The property clerk has supervision over the execution of contracts for the furnishing of supplies, and has the custody of purchased supplies. Supplies wanted by the several offices of the District government are obtained by means of requisitions upon the property clerk. Supplies purchased by the District of Columbia are subject to close inspection both as to their quantity and quality. Special provision is made for an inspector of fuel who examines all coal and wood purchased for the use of the offices of the District government.¹³ An inspector of asphalt and cements tests the quality of all materials used in street improvements, of cement, and of all other materials submitted to him by the engineer department.

In their administration of the District government the Commissioners have authority "to abolish any office, to consolidate two or more offices, reduce the number of employees, remove from office, and make appointments to any office under them authorized by law."¹⁴ In as much as Congress makes detailed appropriations for the offices of the District of Columbia, the Commissioners now have practically no power to abolish, consolidate, or reduce the number of offices, but their power of appointment and removal remains almost unlimited.¹⁵ With respect to one class of officials the Commissioners' appointing power is limited; provision is made by law that medical inspectors of schools shall

¹³ D. C. Compiled Statutes, 112.

¹⁴ 20 Statutes at Large, 104.

¹⁵ It should be understood, however, that the Commissioners' power of appointment and removal does not extend to teachers and school officers, who are appointed and removed by the board of education; or to officers whose appointments are made by the board of charities, board of children's guardians, board of library trustees, or by the local courts. The two assistants to the Engineer Commissioner are the superintendents of the municipal building, and subject to the approval of the Commissioners appoint all employees provided for the care of this building.

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be appointed only after a competitive examination.¹⁶ With reference to the removal of officers there are also some restrictions upon the power of the Commissioners, by the legal provisions that the assessor and assistant assessors of taxes shall hold office during good behavior, and that no person shall be removed from the police force except upon written charges preferred against him and after being given an opportunity to be heard in his own defense before a trial board.¹⁷

Without legal protection it is almost impossible for the Commissioners to apply the merit system in all cases when they make appointments, and for this reason they have repeatedly recommended that Congress enact a civil service law for the District of Columbia. Notwithstanding the fact that there is no legislation for such a purpose, the Commissioners have established and maintained a merit system of appointments and promotions, with removals only for cause. Through the courtesy of the United States Civil Service Commission applicants for appointment to the police and fire departments and to certain technical positions are examined for the Commissioners by that body.¹⁸ It is provided by law that appointments in the health department shall be made upon the recommendation of the health officer; in other departments of the District government appointments are also in all cases made upon the recommendation of the head of the department or office, but there is no law requiring such a practice. In cases where no civil service examinations are required for appointment to technical positions, the head of the department in which the appointment is to be made tests the fitness of applicants in such a manner as he may think proper. Removals for cause are made only after an investigation by the Commiss-

¹⁶ 32 Statutes at Large, 969.

¹⁷ 34 Statutes at Large, 222; 32 Statutes at Large, 617.

¹⁸ As to the legality of such action see *Harrison v. Black*, 31 App. D. C. 417.

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sioner having under his control the department affected by such removal, or after a hearing by the full board.

All officers of the District of Columbia before assuming their duties are required to take an oath or affirmation to support the constitution of the United States and faithfully to discharge the duties of their respective offices. All officers occupying positions of responsibility are required to give bond for the faithful performance of their duties. Such bonds are required to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon, and must be renewed once every four years.["] Neither the Commissioners nor any other officers of the District of Columbia will be accepted as sureties upon any bond given to the District of Columbia, nor will any contractor be accepted as surety upon such a bond.["]

Legislative Powers.—We have discussed in a general way the administrative powers of the board of Commissioners. Congress has also conferred upon the Commissioners extensive powers of legislation with reference to matters of local interest.["] In addi-

["] 28 Statutes at Large, 807.

["] 20 Statutes at Large, 103.

["] It may be well to mention the fact that several other bodies in the District of Columbia exercise subordinate legislative powers under grants made by acts of Congress. The board of education, board of charities, board of children's guardians, board of library trustees, and excise board have power to make regulations with respect to the matters committed to their charge. Regulations with respect to Rock Creek Park are made by the board of control of that park, and regulations respecting other parks in the District are made by the Chief of Engineers of the United States Army. Rules for the control of street railway traffic are made by the Interstate Commerce Commission. The health officer makes regulations regarding the medical inspection of schools and the control of dairies and dairy farms, subject, however, to the approval of the Commissioners. The superintendent of insurance, under the supervision of the Commissioners, makes rules as to the conduct of business by insurance companies. The

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tion to their authority to make regulations concerning the property of the District of Columbia and with respect to the officials placed under their immediate supervision, the Commissioners have power:

(1) To make, modify, and enforce all needful rules and regulations for the proper government, conduct, discipline, and good name of the metropolitan police force.*

(2) To appoint, assign to duty, promote, reduce, fine, suspend, and remove officers and members of the fire department, in accordance with such rules and regulations as they may make.*

(3) To make such regulations as they may consider proper for the sale of the rights and privileges of the fish wharf in the District of Columbia, provided that no letting or sale of such rights and privileges shall be for a longer term than one year.

(4) To make such regulations as they may deem proper for the sale of the use of the public hay scales of the District of Columbia, to place public weighmasters in charge of such scales when deemed necessary, and to prescribe the fees to be paid by the persons using such scales.*

(5) To make and publish such general orders as may be necessary to regulate the platting and subdividing of all lands and grounds in the District of Columbia.*

(6) To establish building lines on streets less than ninety feet wide, upon the petition of the owners of more than one-half of the real estate affected by such lines, or when the Commissioners

courts make rules and regulations regarding the conduct of business before them.

* 34 Statutes at Large, 221.

* 34 Statutes at Large, 314.

* 34 Statutes at Large, 72.

* 25 Statutes at Large, 451.

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deem that the public interests require that building lines be established."²⁴

(7) To open, extend, widen, or straighten alleys and minor streets."²⁵

(8) To make such regulations as they may deem necessary for the lighting and police control of all bridges in the District of Columbia, except the aqueduct bridge over Rock Creek, and for the safety of the public using such bridges."²⁶

(9) To regulate the character, location, and construction of conduits and the height of poles and wires used for telegraph and telephone services, and to regulate the location of gas mains in the streets and public places of the District of Columbia."²⁷

(10) To locate the places where hacks shall stand and to change such places as often as the public interests require."²⁸

(11) To make needful rules and regulations for the orderly disposition of carriages or other vehicles assembled on streets or public places."²⁹

(12) To establish and regulate the charges to be made by cabs, taxicabs, and public vehicles."³⁰

(13) To locate the places where licensed venders on streets and public places shall stand, to change such places as often as the public interests require, and to make all necessary regulations governing their conduct upon the streets in relation to such business."³¹

²⁴ 34 Statutes at Large, 384.

²⁵ D. C. Code, sec. 1608.

²⁶ 27 Statutes at Large, 544.

²⁷ 32 Statutes at Large, 395; 33 Statutes at Large, 986; 27 Statutes at Large, 544.

²⁸ 20 Statutes at Large, 104.

²⁹ 24 Statutes at Large, 368.

³⁰ 24 Statutes at Large, 368; D. C. appropriation act for 1910, p. 41.

³¹ 24 Statutes at Large, 368.

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- (14) To regulate the movements of vehicles on the public streets and avenues for the preservation of order and the protection of life and limb.*
- (15) To prohibit the deposit upon streets or sidewalks of fruit, or any part thereof, or other substances or articles that might litter the same, or cause injury to or impede pedestrians.**
- (16) To prohibit the conducting of droves of animals upon such streets and avenues as they may think proper, for the preservation of public safety and good order.***
- (17) To regulate the keeping and running at large of dogs and fowls.****
- (18) To prescribe rules for the taking up and impounding of domestic animals found running at large in the District of Columbia.*****
- (19) To make regulations for causing full inspection to be made, at any reasonable time, of places where pawnbroking, junk-dealing, or the second-hand clothing business may be carried on.*****
- (20) To regulate or prohibit loud noises with horns, gongs, or other instruments, or loud cries upon the streets or public places; and to prohibit the use of any fireworks or explosives within such portions of the District as they may think necessary for the public safety.*****
- (21) To make such reasonable and usual police regulations as they may deem necessary for the regulation of fire arms, pro-

* 24 Statutes at Large, 368.

** *Ibid.*

*** *Ibid.*

**** *Ibid.*

***** 21 Statutes at Large, 35.

***** 24 Statutes at Large, 368.

***** 24 Statutes at Large, 368.

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jectiles, explosives, or weapons of any kind in the District of Columbia.”

(22) To regulate the storage of highly inflammable substances in the densely populated portions of the District.”

(23) To make and enforce such building regulations as they may deem advisable.”

(24) To make, modify, and enforce regulations governing plumbing, gas-fitting, house drainage, and the ventilation, preservation, and maintenance in good order of house sewers and public sewers in the District of Columbia, and also regulations governing the examination, registration, and licensing of plumbers and the practice of the business of plumbing and gas-fitting.”

(25) To make and publish such orders as may be necessary to regulate the construction, repair, and operation of all elevators within the District of Columbia.”

(26) To prescribe tests to be applied in the inspection of boilers and engines, and regulations for the examination of steam engineers.”

(27) To prescribe the location, numbers, material, type, and construction of fire escapes required by law to be erected in certain buildings.”

(28) To alter, amend, or repeal any ordinances of the board of health which were legalized by a joint resolution of Congress in 1880.” These ordinances relate to such subjects as nuisances, running at large of domestic animals, sale of unwhole-

“34 Statutes at Large, 809.

“24 Statutes at Large, 368.

“20 Statutes at Large, 131.

“27 Statutes at Large, 21, 543.

“24 Statutes at Large, 580.

“24 Statutes at Large, 427.

“34 Statutes at Large, 70.

“30 Statutes at Large, 1390.

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some food, inspection of food, recording of vital statistics, regulations for the prevention and control of small pox; and thus cover almost the whole field of local health regulation.

(29) To make such regulations as they may deem necessary to prevent the spread of diphteria, scarlet fever, and a number of other contagious diseases.["]

(30) To make and enforce rules and regulations to prevent the spread of tuberculosis.["]

(31) To promulgate such regulations as in their judgment public interests may require to govern the establishment and maintenance of private hospitals; and to regulate the issue, suspension, and revocation of licenses to such institutions.["]

(32) To make regulations for the control of contagious diseases among domestic animals.["]

(33) To make regulations with regard to the registration of medical and dental colleges not incorporated by special acts of Congress.["]

(34) To make all regulations necessary for the collection and disposal of garbage and other refuse.["]

(35) To terminate licenses of places of amusement which, after due notice, fail to comply with such regulations as the Commissioners may prescribe for the public decency.["]

(36) To make rules and regulations respecting the production, use, and control of electricity for light, heat and power purposes.["]

["] 34 Statutes at Large, 890.

["] U. S. Statutes, 1907-08, p. 126.

["] U. S. Statutes, 1907-08, p. 64.

["] 23 Statutes at Large, 33; 20 Statutes at Large, 173.

["] 29 Statutes at Large, 112.

["] 33 Statutes at Large, 621.

["] 31 Statutes at Large, 1463.

["] 33 Statutes at Large, 306.

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(37) To make and enforce such rules and regulations relative to the sale of coal in the District of Columbia as shall insure full weight to the purchasers of that article."¹

(38) To make and enforce all such reasonable and usual police regulations as they may deem necessary for the protection of lives, limbs, health, comfort, and quiet of all persons and the protection of all property within the District of Columbia."² This general grant of powers is so broad as to include almost all of the specific powers enumerated above.

The power to make municipal regulations is a legislative power, which must be exercised in such a manner as to affect equally all persons to whom the regulations apply. The Commissioners cannot enact a regulation, and then upon the application of an individual waive its operation while leaving it in effect as to other persons. They may amend or repeal a regulation which they have adopted, but are not invested with power to suspend it temporarily or to make special orders exempting any particular person or property from its operation."³

The power granted to the Commissioners to make police, building, and other regulations would be ineffective without the authority to enforce such regulations by prescribing appropriate penalties for their violation. When power is granted to enact a regulation, there is implied from the grant a power to enforce such regulation by fine or imprisonment or by both fine and imprisonment. In most of its laws granting legislative powers to the Commissioners, Congress has not left their power to prescribe penalties to be implied, but has expressly authorized them to affix to their regulations such penalties as may in their judgment be necessary to secure compliance therewith.

To be upheld by the courts a municipal regulation must con-

¹ 20 Statutes at Large, 131.

² 27 Statutes at Large, 394.

³ Berry v. D. C., 36 Washington Law Reporter, 742.

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form to the three following conditions: (1) It must be enacted in the exercise of power granted to the Commissioners by Congress. (2) It must not be in conflict with the United States constitution, or with laws enacted by Congress and in force in the District of Columbia. (3) It must be reasonable.

The general principle that a legislative body may not delegate its powers is subject to the exception that a municipal corporation may be granted power to regulate matters of purely local interest. Power thus granted to a municipal corporation is strictly construed; and the Commissioners have only such legislative power as is expressly conferred upon them, or as is necessarily or fairly implied from the powers expressly granted.*

The constitution of the United States and acts of Congress are laws of a character superior to municipal regulations, and the courts will hold a municipal regulation to be invalid if it conflicts with the federal constitution or with federal laws. In granting certain legislative power to the Commissioners Congress does not in any way restrict its own authority, but retains power to regulate by legislation any matters within the District of Columbia no matter how unimportant they may be; it may at any time pass laws with reference to matters over which it has given the Commissioners power, and when acting in such a case it of course supersedes the power of the Commissioners. Although Congress often passes laws relating to purely local matters, it as a rule leaves almost entirely to the Commissioners the enactment of local regulations of a municipal character.

Every municipal regulation must be reasonable in order to be upheld by the courts as valid.* This test of reasonableness is not ordinarily applied to acts of Congress, which are upheld unless they violate some provision of the federal constitution. Con-

* *Coughlin v. D. C.*, 25 App. D. C. 251.

* *Kerr v. Ross*, 5 App. D. C. 241; *B. & O. Railroad Co. v. D. C.*, 10 App. D. C. 111.

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gress, however, often exercises its power to pass measures of a purely local character, measures which are practically municipal ordinances. The courts treat such acts of Congress in almost the same manner as if they were municipal regulations enacted by the Commissioners, and declare them invalid if they are found to be unreasonable; the action of the courts in such cases is, however, always based upon the argument that the laws under consideration violate the constitution of the United States.*

Commissioners' Hearings.—In the conduct of their business the Commissioners give full opportunity for the expression of public opinion upon all matters of importance. By means of public hearings they invite statements by those in favor of or opposed to actions which they may think of taking. These hearings relate either to legislative or to administrative measures. With respect to legislative matters they relate to the enactment of municipal regulations, to bills submitted to the Commissioners for their opinion by committees of the House and Senate, and to bills which the Commissioners submit to Congress with a recommendation for their passage. In 1906 the Commissioners held public hearings concerning the sanitary control of barber shops, and as a result of the hearings promulgated certain regulations upon this subject. In 1908 they held a public investigation of the business of money lending, preparatory to submitting a bill to Congress upon that subject. By means of frequent hearings of the character here indicated, the Commissioners obtain information which serves as a basis for intelligent action in the enactment of municipal regulations, in the presentation of their annual estimates to Congress, in the drafting of bills to be submitted to Congress for action, and in the making of recommendations upon bills referred to them by the committees of the House and Senate. Where legislative measures do not relate to sub-

* *District of Columbia v. Brooke*, 29 App. D. C. 563; *McGuire v. D. C.*, 24 App. D. C. 22.

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jects of general interest, public hearings are not held, but the Commissioners consult representatives of those whose special interests are involved.

Sometimes the Commissioners' hearings assume a judicial or quasi-judicial character, as when they relate to the revocation of licenses for the running of employment agencies, to the conduct of a public official, or to charges brought against the administration of a department of the District government. As an example of hearings of this character may be cited an investigation conducted in 1908 as a result of charges that favoritism had been shown in the award of contracts for public improvements.

Public notice of the Commissioners' hearings is given through the newspapers, and interested persons are willing and anxious to appear and state their opinions with reference to most legislative questions of importance. In hearings not of a legislative character the persons involved often may not desire to be present. For this reason the Commissioners are given power to issue subpoenas to compel the attendance of witnesses before them in their investigation or examination of any municipal matters, and are authorized to administer oaths to witnesses whom they may summon. Should any witness refuse to appear after being summoned the Commissioners may apply to the police court to compel his attendance.*

Use of Expert Assistance.—In drafting bills to be submitted to Congress for action and in the enactment of municipal regulations the Commissioners make use of expert assistance to a large extent. For the revision of the building regulations the Commissioners in 1906 appointed a committee of eleven citizens representing the several trades and professions engaged in building work; the members of this committee, of which the inspector of

* 29 Statutes at Large, 10; 32 Statutes at Large, 591.

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buildings is chairman, act without compensation, and have held public hearings in order to get a free expression of opinion with regard to the subject which they have under consideration. In order to determine what measures were necessary for the control of the milk supply of the District of Columbia the Commissioners in 1907 appointed a milk commission composed of representatives of the milk producers' and milk dealers' associations, of representatives of the medical societies of the District, and of sanitary experts a number of whom were connected with the service of the federal government. The thirty-six members of this commission, serving without compensation, held a number of meetings, heard representatives of the different interests involved, and made a valuable report upon the subject of the sanitary control of milk production.* This commission recommended new legislation, and the bill approved by it was submitted by the Commissioners to the District committees of the House and Senate; the commission also made recommendations for the improvement of the administrative control of the milk supply by the health department.**

In the service of the District of Columbia there are experts upon the various branches of municipal administration, and such experts are consulted by the Commissioners with respect to needed legislation or municipal regulation in their respective fields; in fact bills submitted to Congress by the Commissioners are frequently if not usually drafted by such experts. Use is also constantly made of expert assistance rendered by such unofficial organizations as the board of trade, the chamber of commerce, Associated Charities, the medical societies, the local bar association, and the playground association. As an indication of the manner in which various official and unofficial bodies co-

* For the titles of this commission's reports see page 285.

** House Hearings on District of Columbia appropriation bill for 1909, p. 236.

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operate in the work of the District government it may be of interest to quote a sentence from a letter written by the Commissioners on December 16, 1905, in transmitting to Congress a bill to regulate the practice of pharmacy in the District of Columbia: "Acting on the suggestion of the Commissioners of the District, the commissioners of pharmacy have endeavored in the preparation of the bill to meet all reasonable criticisms, and the draft herewith submitted has been unanimously approved at a conference composed of representatives of the physicians, the pharmacists (both employers and employees), and the National College of Pharmacy, of the District of Columbia."**

In the administration of the District of Columbia many legal questions are involved. The corporation counsel and his assistants are appointed by the Commissioners, and are the legal advisers of the Commissioners and of all branches of the District government except the board of education. In addition to their work of prosecuting offenders in the courts and of protecting the interests of the District of Columbia in civil cases, they render opinions to the Commissioners upon legal questions which may arise,* and assist in the preparation of bills submitted by the Commissioners to Congress. In discussing the Commissioners it should also be mentioned that they have power to grant pardons and respite for offenses against the municipal ordinances and regulations in force in the District of Columbia.*

* 59th Congress, 1st session, Senate report 820.

* D. C. Compiled Statutes, 210.

* 27 Statutes at Large, 22.

CHAPTER VI.

THE FINANCES OF THE DISTRICT OF COLUMBIA.

Contributions from the Federal Treasury.—Before 1871 Congress took little interest in the development of the federal capital, and the several municipal corporations existing within the District of Columbia were too weak financially to improve the territory which they occupied.¹ Under the territorial government (1871-1874) Congress contributed more freely than ever before toward the support and development of the federal district, but its appropriations were based upon no definite plan. When the territorial government was abolished in 1874, Congress took over the financial administration of the District of Columbia, assumed full responsibility for its debt and for all necessary current expenses which should not be met by local taxation.

A bill presented in 1876 for the permanent government of the District of Columbia contained the provision that forty per cent of its expenses should be defrayed by the general government. By the act of 1878 under which the District of Columbia is now governed, the ratio was placed at one-half, and since 1878 the United States Government has borne one-half of the expenses of the District, as approved by Congress in its annual appropriation acts. This rule is based upon the fact that about one-

¹The cities of Washington and Georgetown, and the county of Washington. The town and county of Alexandria were retroceded to Virginia in 1846.

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half of the value of real property in the District of Columbia belongs to the United States Government and is not taxed. The half-and-half rule has not, however, been observed in all cases. It has been customary for Congress to place upon the District of Columbia the whole burden of paying for street extensions, where the cost of such extensions is not borne entirely by the property benefited. A law of 1906 regarding street extensions specifically provides that "if the total amount of the damages awarded by the jury and the costs and expenses of the proceedings be in excess of the total amount of the assessments for benefits, such excess shall be borne and paid by the District of Columbia."²⁴ Congress has adopted an elaborate plan of street extensions within the District of Columbia outside of the densely populated areas; this plan is not now essential to the interests of the District of Columbia but is a part of broad plans for the improvement of the federal district; however, the people of the District of Columbia are required to pay any expense which may be incurred in carrying out these plans. There are also other cases in which Congress has departed from the half-and-half rule.²⁵

Local Revenue System.—Apart from the contributions from the federal treasury, the receipts of the District of Columbia from taxes and other revenues, for the fiscal year ending June 30, 1908, were \$6,716,381.11. This amount was made up principally of the following items:

Real property tax,	\$3,769,422 61
Personal property taxes,	821,933 04
Licenses (business), including dog tax and insurance,	674,865 46
Industrial enterprises,	583,937 18

²⁴ 34 Statutes at Large, 151, 1128, 1157.

²⁵ 27 Statutes at Large, 532; 30 *ibid.*, 520; 34 *ibid.*, 800.

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Fees,	\$84,218	68
Fines,	105,272	32

Of the items of revenue enumerated above, almost the whole amounts received from industrial enterprises and from fines are treated as trust funds, the receipts from the water department being devoted to the maintenance of that service, and about four-fifths of the receipts from fines going into the police and firemen's relief funds; practically all of the receipts from the dog tax (about \$21,000) also go into the police relief fund; retents on contracts and some other temporary deposits to the credit of the District are also classed as revenue; these amounts must be deducted from the total in order to obtain the net amount of local revenue subject to appropriation by Congress under the half-and-half rule. During the fiscal year ending June 30, 1908, the amount of District revenue subject to Congressional appropriation under the half-and-half rule was about five and one-half million dollars.

By a curious system of bookkeeping required by law, special assessments are not treated primarily as revenue, and it is impossible to know the exact amount received from this source, but during the fiscal year ending June 30, 1908, special assessments were levied to the amount of \$321,978.32.

Real property and tangible personality are taxed in practically the same manner, and may be discussed together. Tangible personality is required to be assessed at its fair cash value; real property at not less than two-thirds of its true value, which is interpreted to mean, at two-thirds of its true value. The rate for both real property and tangible personality is one and one-half per cent on the assessed valuation. The terms "fair cash value" and "true value" are interpreted to mean market value under normal conditions. Before 1892 the assessors interpreted

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these terms to mean "what property would bring at forced sale under adverse circumstances."⁴

The following personal property is exempt from taxation: (1) personal property of all library, benevolent, charitable and scientific institutions incorporated under the laws of the United States or of the District of Columbia, and not conducted for private gain; (2) libraries, school books, wearing apparel, and all family portraits; (3) household and other belongings, not held for sale, to the value of one thousand dollars, owned by the occupant of any dwelling house or other place of abode, in which such household and other belongings may be located.⁵ It is difficult to say just what real property is exempt from taxation. Of course no property of the United States or of the District of Columbia is taxable. Real and personal property owned by foreign governments is exempt from taxation. All churches, institutions of public charity, public library buildings, school houses not used for private gain, and cemeteries not conducted for a profit, are exempt from taxation upon all their property not used for business purposes or to secure an income. In addition, there are numerous organizations of a charitable, religious, or educational character exempted from taxation by special acts of Congress.⁶ In 1903 the assessor estimated that 51.80 per cent of the value of real estate in the District of Columbia belonged to the United States, 0.95 per cent to the District of Columbia, and that 2.65 per cent was exempted from taxation under general or special laws regarding educational, religious, charitable, and other institutions, so that only 44.60 per cent of the real property was actually taxed. The taking of additional property by the United States for public purposes,

⁴ 52d Congress, 1st sess., House report 1469.

⁵ 32 Statutes at Large, 620; 33 *ibid.*, 564.

⁶ D. C. Compiled Statutes, 519-521; 32 Statutes at Large, 616.

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while adding to the beauty of the District of Columbia through the construction of new buildings and the opening of wide streets, is constantly increasing the relative amount of property which is exempt from taxation.

For the assessment of real property and of tangible personality there are an assessor and five assistant assessors, all of whom are irremovable except for inefficiency, neglect of duty, or malfeasance in office.¹ Three of the assistant assessors are designated to form a board for the assessment of real property and also an excise board for the issuance of liquor licenses and the enforcement of the laws regarding the sale of liquor. The assessor is ex-officio chairman of these boards. A new assessment of real property is made once every three years. Within the period between the triennial assessments, the assistant assessors add to the assessment roll other property which has become subject to taxation or which may have been missed at the time of the regular assessment.²

The three assistant assessors together, "from actual view and from the best sources of information within their reach," make their valuations of each separate tract of real property, and estimate separately the value of all improvements on each tract. For their guidance a daily transcript is made and entered on the records of the assessor, of property transferred by deeds and wills filed in the offices of the recorder of deeds and the register of wills.³

Two of the assistant assessors form a board of personal tax appraisers, of which the assessor is ex-officio chairman. Tangible personality is required to be returned by its owners on detailed schedules of personal property. The assessor annually gives notice by publication when the personal property schedules

¹32 Statutes at Large, 617.

²28 Statutes at Large, 282.

³30 Statutes at Large, 1376.

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are ready for distribution and may be had at his office. Such schedules are required to be made out and returned within thirty days after the published notice of their being ready for distribution. It has been the experience of the appraisers that little more than one-half of those liable to taxation on personal property make returns on the regular schedules.¹⁰ Where returns are not made, the appraisers, "from the best information they can procure,"¹¹ make an assessment and add thereto a penalty of twenty per cent. The personal tax appraisers have authority to reject any returns and to reassess personal property upon examination, or upon the basis of other definite information which they may be able to obtain.¹² By means of inspectors who personally examine house furnishings and other personal property, the personal tax appraisers think that they succeed in assessing practically all taxable personality, and that such property is assessed at approximately its true value.

The assessor and the five members of the board of assistant assessors together constitute a board of equalization and review of real estate assessments, and a board of personal tax appeals; an appeal lies to them from every assessment made by the real estate assessors and the personal tax appraisers. The same persons thus sit in judgment on appeals from their own assessments.

All taxes on real and personal property are payable in the month of May of each year, but may be paid in two equal installments, the first in November, and the second in May. If taxes are not paid by the first day of June, a penalty of one

¹⁰ Report of the Commissioners for 1905, I, 73.

¹¹ This clause is interpreted to require definite information as a basis for assessment, obtained either by actual view or otherwise. Report of the Commissioners for 1907, I, 90.

¹² 32 Statutes at Large, 617. Report of the Commissioners for 1903, p. 64.

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per cent per month is imposed.¹² Personal taxes remaining unpaid after this date are collected by distress and sale of personal property, or in default thereof, by the sale of real property.¹³ The payment of taxes on real property is enforced by the sale of the property upon which the taxes are delinquent.¹⁴

Before 1893 there was much criticism of real property assessments, which were triennially made by temporary employees. As a remedy the Commissioners of the District of Columbia proposed the creation of a board of permanent assessors, and this reform was definitely effected by the law of August 14, 1894.

However the assessment of real property still remains to a large extent unsatisfactory. A congressional committee which examined the assessed values of real property in 1892 endorsed the statement that business property was assessed at about fourteen per cent of its true value, small houses at from seventy to eighty per cent of their value, while land held for speculative purposes was assessed at about ten per cent of its value. This was under the régime of temporary assessors employed for only a few months in each three-year period, and much fairer valuations have unquestionably been obtained by the permanent board of assessors. However, a comparison of assessment values with selling prices shows a great undervaluation of unimproved suburban property. For the property condemned by the United States Government for the Senate Office Building, juries awarded the owners from two to three times the assessed valuation. But this can hardly be considered fair evidence, for everyone knows that high awards are usual in condemnation proceedings. But other evidence is easily at hand, and a comparison of selling prices with valuations for taxation clearly shows that much

¹² 32 Statutes at Large, 33.

¹³ 32 Statutes at Large, 621; 33 *ibid.*, 564.

¹⁴ 32 Statutes at Large, 632.

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real property is undervalued. There has, however, been a comparatively steady increase in the total value of real property within the District of Columbia, which may be traced in the following table of real property valuations for taxation:

1873,	\$87,869,924
1878,	97,609,890
1883,	92,533,665
1888,	111,744,830
1893,	147,024,276
1898,	181,256,284
1903,	208,519,436
1908,	255,324,834

The new triennial assessment for the years 1909-1911 shows an increase of more than twenty-one million dollars over the real property assessment of 1908.

Until 1901 the District of Columbia had the general property tax almost without modification, and the assessors made the attempt to reach both tangible and intangible personality. In their report for the year 1881 the Commissioners called attention in strong terms to the failure of the tax system with reference to intangible personality: "That the personal tax law now in force has not been successful as a revenue measure, experience has clearly demonstrated. Its tendency is to discourage business and honest returns of personal property for taxation; to enhance the local rates of interest on money; to encourage the investment of local or resident capital in non-taxable securities; and to give the control and profit of the local money market to non-resident capitalists." The assessor's report for 1882 called the whole system a failure and said that for that year hardly any intangible property had been returned for taxation.¹⁴ However a table of assessments at intervals of

¹⁴ Report of the Commissioners for 1882, p. 53.

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four years, from 1877 to 1901, will show the failure of the general tax on personal property much more clearly than could be done in words:

1877,	\$15,429,873
1881,	10,895,712
1885,	12,795,934
1889,	11,728,672
1893,	12,045,290
1897,	9,532,851
1901,	12,567,084

As was said above the law for the assessment of personal property became practically a dead letter. Under the law of 1877 providing for the assessment of personal property, returns were to be made by property owners upon blanks furnished by the assessor. If the returns were not made within a limited time the assessor was required to make an assessment from the best information which he could procure, and to add thereto fifty per cent as a penalty. Under the direction of the Commissioners the assessor in 1901 attempted to enforce this law, but the matter was brought before the Supreme Court of the District of Columbia, which declared that the law of 1877 had been virtually repealed by subsequent congressional enactments.¹¹

With the failure of the law of 1877 further legislation regarding taxation immediately became necessary, and Congress by the law of July 1, 1902, introduced the first radical departure from the system of the general property tax. This law as amended on April 28, 1904, is now in force.¹²

What is now called a personal property tax in the District of Columbia is really a combination of several distinct taxes. The taxation of tangible personality has already been discussed.

¹¹ Report of the Commissioners for 1902, p. 52.

¹² 32 Statutes at Large, 617; 33 *ibid.*, 563; act of March 3, 1909, p. 6.

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Dealers in general merchandise are required to pay a tax of one and one-half per cent upon their average stock in trade for the year preceding their tax returns.

A fairly well defined system of corporate taxation was established by the laws of 1902 and 1904. National banks, incorporated banks, and trust companies are required to pay a tax of six per cent of their gross earnings; incorporated savings banks, four per cent of their gross earnings, less the interest paid to their depositors; unincorporated savings banks, one and one-half per cent of their surplus and undivided profits at the end of each year; street railways, four per cent of their gross receipts; building associations, two per cent of their gross earnings; gas companies, five per cent; electric light and telephone companies, four per cent of their gross earnings; fidelity, guaranty, and title companies, one and one-half per cent of their gross receipts within the District of Columbia; insurance companies one and one-half per cent of their premium receipts. These gross receipts and premium receipts are returned by the corporations upon the personal property assessment blanks in the same manner as is tangible personality. In addition to these gross receipts taxes the law specifically provides that real estate owned by national and other incorporated banks, and by trust, gas, electric light, and telephone companies shall be taxed as is other real estate. Real estate of street railways is also subject to the regular real property tax. The most remunerative of the gross receipts taxes are those on public service corporations; in 1908 about ten per cent. of real and personal property receipts were derived from this source.²⁰

The capital stock of corporations organized in, or for the purpose of transacting business within the District of Columbia, other than those provided for above or exempted from taxation

²⁰ Report of the Commissioners for 1908, p. 33.

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by law, is appraised in bulk at its fair cash value by the board of personal tax appraisers and is subject to a tax of one and one-half per cent per annum upon such assessed valuation, but from the value of such capital stock is first deducted the assessed value of all real estate in the District of Columbia which is separately taxed against the corporation. The law specifies that none of its provisions regarding the taxation of capital stock of corporations shall be "construed to include business companies which, by reason of or in addition to incorporation receive no special franchise or privileges; but all such corporations shall be rated, assessed, and taxed as individuals conducting business in similar lines are rated, assessed, and taxed."^{**} As is seen above the law for the general taxation of corporations is very ambiguous. The law regarding the taxation of the capital stock of corporations seems to be of little or no value, for few but public service corporations (which are otherwise taxed) receive any special franchise or privilege by virtue of their incorporation; in fact no corporations within the District of Columbia are taxed on their capital stock.

This brief description of corporate taxation in the District of Columbia indicates its patchwork character. It is partly a tax on valuable franchises; partly a heavy and unequal tax on businesses which derive no special benefit from incorporation. For example, trust companies, incorporated savings banks, and building associations, engaged to a large extent in similar business operations, are taxed respectively six, four, and two per cent on their gross earnings. It should be said, however, that the Commissioners of the District have for several years recommended a readjustment and reduction of tax rates on banks and similar institutions, and an increase of rates upon the valuable franchises of public service corporations.^{**}

^{**} 33 Statutes at Large, 564.

^{**} Report of the Commissioners for 1908, p. 34.

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An analysis of the revenue derived from the so-called personal tax is of interest. For the fiscal year 1907-08 the total personal tax levy ^{**} amounted to \$863,882.10, of which the estimated revenue from gross receipts taxes was \$516,673.39, leaving as the estimated yield from tangible personality, \$347,208.71. Deducting the gross receipts taxes, the revenue derived from tangible personality represents a capitalized value of about twenty-three million dollars of which perhaps the greater part represents store fixtures and business stock in trade. The generous exemption of household property to the value of one thousand dollars leaves the greater part of such personality free from taxation, for Washington has not yet become pre-eminently the home of rich people.

The sources of local revenue, aside from real and personal property taxes may be briefly considered. Receipts from licenses form the third most important item of District revenues, but the amount credited to this source is increased by about \$75,000 through the plan of classing the tax on insurance premiums with license taxes. There is an elaborate system of business licenses covering practically everything from a slot machine to a private bank. Some of these license taxes are no

^{**} Report of assessor for 1908. The figures on page 94 represent the total amount collected at end of fiscal year; those here used are based upon the tax levy, not all of the taxes having been collected at the end of the year. The totals here used do not include the revenues derived from the tax on premium receipts, which are classed with license taxes. The total of \$347,208.71 includes an item of \$11,163.86 paid by the street railways for the use of the highway bridge (this of course not being a personal property tax at all); and also estimated revenues from the taxes on fidelity, guaranty and title companies, and on unincorporated savings banks (these items being comparatively small); the deduction of these items reduces still further the total revenue derived from tangible personality.

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more than small fees imposed for police purposes, and for most businesses they yield but a small amount of revenue. Much the most important single item is that of liquor licenses, which yield nearly seven-tenths of the total revenue from this source.

The revenue derived from fees is comparatively small, the most important items being judicial fees, fees for building permits, and payments for the services of the public surveyor. The receipts from fines imposed by the police court do not constitute a large amount.

The important industrial enterprises of the District of Columbia are its water system, markets, and wharves. For the fiscal year ending June 30, 1908, the receipts of the waterworks amounted to \$547,507.95, and the expenditures were \$561,256.31. The system has uniformly been managed with the view of furnishing water at the lowest rate which would make the waterworks self-supporting. In 1902 annual surpluses had formed a fund of several hundred thousand dollars which has since then been used for the improvement of the service. The revenues of the waterworks have been sufficient to provide for the maintenance and betterment of the service, but not sufficient to defray the cost of extensive permanent improvements, such as aqueducts and filtration plants; that is, they have been sufficient for maintenance but not for the extension of the service.* The revenue derived from the rental of markets and wharves is comparatively small, but is more than sufficient for the maintenance of the property rented.

With regard to special assessments it is necessary to speak more at length. For the construction of sidewalks and the improvement of alleys, and for the setting of curbs one-half the cost is assessed upon abutting property, on the basis of linear frontage. The whole cost of service connections with water

* For a discussion of the waterworks see pages 218-221.

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mains and sewers is assessed against the property benefited.^{**} For the laying of water mains abutting property is assessed at one dollar and twenty-five cents per linear front foot, and for the laying of service sewers an assessment of one dollar per linear front foot is made.*

For the opening, widening, or extension of alleys, and the extension of streets and avenues, a judicial proceeding is provided for the condemnation of property and the assessment of benefits. The Commissioners institute proceedings before the Supreme Court of the District of Columbia. The court, after proper notice, appoints a jury of five disinterested freeholders. This jury assesses the value of property condemned, and the benefits accruing to property from the opening or extension of a street or alley. The court may set aside the award of this jury, either upon the complaint of property owners or upon its own motion, but when confirmed such awards become liens upon the property affected.*

In some of its earlier laws for street extensions Congress provided that the amount of benefits assessed should not be less than one-half the total damages awarded for the condemnation of land.* This provision was held unconstitutional by the Court of Appeals of the District of Columbia, as a departure from the rule that special assessments should be apportioned only with reference to the amount of special benefit, but the law was sustained, on appeal, by the Supreme Court of the United States.* Other laws attempted to impose at least one-half the cost of street extensions upon the property owners benefited by pro-

* 26 Statutes at Large, 1062; 28 *ibid.*, 247.

** 33 Statutes at Large, 244.

** D. C. Code, sec. 1608-16081; 34 Statutes at Large, 151.

** 30 Statutes at Large, 1344.

** *Davidson v. Wight*, 16 App. D. C., 371; *Wight v. Davidson*, 181 U. S. 371.

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viding that the Commissioners of the District of Columbia might reject the findings of juries if the aggregate amount of benefits assessed were less than one-half the amount of damages awarded."³¹ The law now provides that the excess of damages over benefits shall be borne by the District of Columbia. Although by the general law discretion is vested with the assessment jury to assess damages and benefits, Congress in almost all of the special acts which it passes authorizing street extensions provides that "the total amount found to be due and awarded as damages, plus the cost and expenses of the proceedings, shall be assessed by the said jury as benefits," and thus imposes the whole burden of street extensions upon the property benefited. The same rule applies to the opening, straightening, widening, or extension of alleys or minor streets, the law providing that the whole cost shall be assessed against the property benefited. The constitutionality of this rule with respect to alleys was contested and the Supreme Court of the United States has held that the special assessment must be limited to the benefit actually conferred upon the property affected.³² The present rule with respect to assessments for the opening of streets and alleys may now be stated to be that the whole cost may be assessed against the property affected if such cost does not exceed the benefit conferred upon the property by the opening of the street or alley. No property except that of the United States or of the District of Columbia and property owned by foreign governments for legation purposes is exempt from assessment for improvements.³³

In concluding the discussion of the revenues of the District of Columbia it may be said that the several taxes have been imposed almost without reference to each other, and that no effort

³¹ 31 Statutes at Large, 665.

³² *Brandenburg v. District of Columbia*, 205 U. S. 135. See also *Bauman v. Ross*, 167 U. S. 548.

³³ 32 Statutes at Large, 596, 961.

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has yet been made to develop a uniform system of taxation. The District of Columbia is in an excellent position to develop a model system of local revenue. Municipal corporations in the states labor under the difficulties arising from the confusion of state and local taxes, but here there is only one taxing body,^{**} and the financial situation has no complications except those arising from the close relationship existing between the United States and the District of Columbia.

Budget and Budgetary Procedure.—The fiscal year of the District of Columbia begins on the first day of July. Preliminary estimates of expenditures are made by the several offices of the District government about one year before the beginning of the fiscal year for which appropriations are to be made.^{**} These estimates are sent to the executive office of the District of Columbia, and are revised by the Commissioners, who frequently make substantial reductions in them. However, the estimates of certain departments of the local government are not subject to change by the Commissioners. The school law requires that the board of education annually on the first day of October transmit its estimates to the Commissioners, who must submit the estimates with such recommendations as they deem proper.^{**} The Commissioners have, under protest from the board of education, submitted to Congress their own revised estimates for schools, together with the estimates of the board of education;^{**}

^{**} It is true that in the District of Columbia the federal customs and internal revenue taxes are in force, but these taxes do not affect the sources of local revenue.

^{**} On June 19, 1908, an order was issued by the Commissioners to the heads of the several departments and offices of the District government requiring that they submit their estimates for the fiscal year beginning July 1, 1909, before September 1, 1908.

^{**} 34 Statutes at Large, 316.

^{**} House Hearings on District of Columbia appropriation bill for 1908, p. 119.

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however they cannot be said to have absolute control over the estimates for schools. The Commissioners are required by law to transmit the estimates of the board of charities without change.["] Among other items which appear in the District of Columbia estimates and appropriations, but which are not subject to revision by the Commissioners are those for the filtration plant, aqueduct, militia, and sinking fund. Besides items in the District of Columbia estimates not subject to revision by the Commissioners, there are items in other appropriation bills which relate to the District, and one-half of the expense of which is borne by the District of Columbia; such, for example, are the expenses for watchmen in the parks, and for the Supreme Court and Court of Appeals of the District of Columbia, appropriations for which are made among the legislative, executive and judicial appropriations of the United States; and expenses for the care and maintenance of parks and for certain charitable institutions, for which provision is made in the appropriations for sundry civil expenses. From this statement it clearly appears that there is no one central authority in the District which has power to prepare estimates.

In the preparation of their estimates for public improvements the Commissioners give careful consideration to the claims and wishes of the several sections of the District of Columbia, the various citizens' associations acting as the organs for the expression of local opinion in these matters.["] When a matter is of sufficient importance and, in fact, whenever those interested in a particular improvement request it, the Commissioners hold public hearings at which those in favor of or opposed to particular improvements may urge reasons for or against them. The District appropriation act of March 3, 1909, contains a require-

["] 31 Statutes at Large, 664.

["] For the work of the citizens' associations see page 263.

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ment that the annual estimates made by the Commissioners shall not be made public until after their submission to Congress. This requirement seems not to interfere with the practice heretofore followed by the Commissioners of holding public hearings with reference to specific proposed estimates or improvements. The committees of the two houses of Congress infrequently insert new items in the District appropriation bill, and on this account it is practically necessary that an item appear in the Commissioners' estimates in order for it to receive consideration from Congress.

The Commissioners submit their estimates to the Secretary of the Treasury during the month of October of each year, together with a statement of estimated revenue from local sources, exclusive of the water department.* The statement of estimated revenues is made up in September of each year by a committee composed of the auditor, the assessor, and the collector of taxes. By virtue of a provision inserted in the District appropriation act of March 3, 1909, the Commissioners are forbidden to submit and the Secretary of the Treasury is forbidden to transmit to Congress estimates for any fiscal year exceeding in the aggregate a sum equal to twice the amount of the total estimated revenues of the District for the same period. By law it is made the duty of the Secretary of the Treasury to approve, disapprove, or suggest changes in the District estimates, as he may think the public interest demands;** but the Secretary of the Treasury can know little or nothing as to the specific needs of the District of Columbia, and simply transmits the estimates of the Commissioners to Congress without sugges-

* Estimates for the water department appear in the estimates of the District of Columbia, but appropriations for this service are payable wholly from the revenues of the water department.

** Compiled Statutes of the D. C., 204.

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tions, or with a recommendation that the total estimates be reduced to an equality with the total estimated revenues.

With respect to the form of estimates and appropriations it should be said that they are as a rule detailed and specific, and that there are few lump sum appropriations. The classification now used is susceptible of improvement, but is made obligatory by a provision of law, enacted in 1902, which requires that "the estimates for expenses of the District of Columbia shall be prepared and submitted each year according to the order and arrangement of the appropriation act for the year preceding, and any changes in such order and arrangement and transfers of salaries from one office or department to another desired by the Commissioners may be submitted by note in the estimates."³²

The congressional machinery for the consideration of the annual District of Columbia appropriation bill is not the most satisfactory. The House and Senate committees on the District of Columbia handle practically all general legislation relating to the District, including measures which relate to taxation. The appropriation bill, however, is considered by the House and Senate committees on appropriations. For several years there has been a practice in the Senate that the chairman of the committee on the District of Columbia should be a member of the committee on appropriations and chairman of the District of Columbia sub-committee of the latter committee; but in the House there is no such informal relationship between the committee on appropriations and the committee on the District of Columbia. Both House and Senate committees on appropria-

³² 32 Statutes at Large, 616, sec. 4; July 1, 1902. The financial accounts must necessarily follow the same classification as that used in the appropriation acts, and until Congress permits the adoption of a different classification of appropriations it will be impossible for the District of Columbia to prepare its accounts in accordance with the approved plans for uniform municipal accounting.

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tions, by means of sub-committees, hold hearings on the District of Columbia appropriation bill; the Commissioners, other officials, organizations, and individuals appear at these hearings to explain estimates and urge appropriations. The appropriation committees do not often go back of the estimates submitted by the Commissioners, and on this account refuse hearings to citizens' associations and to almost all others except those officially connected with the government of the District of Columbia. These hearings consume much time, and now and then they are very exhaustive,^a but the congressional sub-committees do not take the time to consider fully all of the individual items of the estimates. As appropriation bills originate in the House, the House hearings are always held first, and the Senate hearings are on the appropriation bill as passed by the House. The appropriation committees of the House and Senate leave to their sub-committees on the District of Columbia practically the whole work of considering and preparing the District of Columbia appropriation bill. In speaking of the work of the District sub-committee of the House Committee on Appropriations, Representative Washington Gardner has made the statement that "as a rule the bill as framed in sub-committee passes the committee with but trifling, if any amendment."^b This statement holds true also with reference to the Senate committee on appropriations. The House and Senate in turn pass the District of Columbia appropriation bill in practically the form in which it is reported to them by their respective committees on appropriations. The bodies which really decide what appropriations shall be made for the District of Columbia are thus the District sub-committees of the House and Senate committees on appropriations. As a rule the Senate materially increases appropriations

^a As, e. g., the House hearing of 1906.

^b Evening Star, April 8, 1908.

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approved by the House; and the House then concurs in a large part of the Senate amendments.

In the congressional hearing and consideration of District appropriations there is little consideration of the matter of the equilibrium of revenues and expenditures. The revenue item is presented, it is true, but appropriations are urged, and there is little consideration given to the development of a well-balanced system of local finance, although it should be said that the efforts of the congressional committees are devoted largely to the keeping down of appropriations. The appropriation committees of the House and Senate probably know more about the affairs of the District of Columbia than any other committees of Congress, but these committees do not and cannot give to the District finances the careful consideration which they deserve.

It would seem that this careful consideration should be given to the estimates before they reach Congress. This might be accomplished by the establishment of a board of estimate, which should receive estimates for all services of the District, and subject them to careful investigation and consideration, giving the taxpayers and other interested persons an opportunity to be heard. Such a board, composed possibly of the Commissioners, the financial officers of the District, the members of the House and Senate sub-committees on District appropriations, and of representatives of the board of education and the board of charities, might well agree upon estimates which should be considered by Congress as almost conclusive.⁴⁴

⁴⁴ It has been suggested that an improvement might be made in the congressional machinery for considering the affairs of the District of Columbia, by concentrating all such matters in the hands of a joint committee of the House and Senate. Theoretically this would be better than the present arrangement, but few senators and representatives could be persuaded to assume the heavy duties which membership of such a committee would involve. Members of Congress must look after the interests of their

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As has been said, appropriations are as a rule detailed and specific, and there is little elasticity in the budget of the District of Columbia. However, for a number of years Congress has annually provided an "emergency fund" of eight thousand dollars "to be expended only in case of emergency, such as riot, pestilence, public insalubrious conditions, calamity by flood or fire, and of like character, and in all cases of emergency not otherwise sufficiently provided for."³⁴ The specific appropriations cannot be exceeded, and the budgetary inelasticity makes necessary the annual appropriation of further amounts to cover deficiencies of appropriations. For the fiscal year 1905-06 there were, besides the regular appropriation act of March 3, 1905,³⁵ additional appropriations for the District of Columbia in the urgent deficiencies act of Feb. 27, 1906, in the additional urgent deficiencies act of April 16, 1906, and in the deficiencies appropriation act of June 30, 1906.³⁶

The United States Treasury is the fiscal agent of the District of Columbia. The local revenues are paid into the federal treasury to the credit of the United States, and no funds in the treasury are credited to the District government. Appropriations are made payable one-half from the revenues of the District of Columbia, but there is no segregation of funds, although an account is kept of revenue derived from local sources; the federal treasury keeps no separate account of the District funds, and the financial officers of the District have no way of knowing at any time what funds in the treasury are available for District expenditures. Money is paid from the treasury to the disbursing officer of the District of Columbia, upon the requisition of the constituents, and naturally prefer to be on committees in which their work will bear a close relation to the interests of their states.

³⁴ Statutes at Large, 1147.

³⁵ Statutes at Large, 883.

³⁶ Statutes at Large, 31, 119, 640.

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Commissioners, each requisition specifying the appropriation upon which it is drawn. No appropriation can be exceeded either in requisition or expenditure.["] All balances of appropriations not expended within two years after the close of the fiscal year for which they were made, are covered back into the Treasury of the United States, one-half to the credit of the United States and one-half to the credit of the District of Columbia.["]

The total expenditures of the government of the District of Columbia for the fiscal year 1907-08 were \$12,717,780.65, of which \$1,494,871.96 were for permanent improvements. Of this expenditure the most important separate items were:

Public schools,	\$2,230,856	12
Charities and corrections,	1,054,649	49
Care and lighting of streets, and disposal of city refuse,	1,243,123	32
Improvement of streets, avenues, alleys, and roads,	989,934	56
Bridges,	473,643	63
Sewers,	709,125	01
Public grounds and parks,	304,272	62
Salaries and expenses of offices (rents, etc.),	625,906	47
Police,	958,468	12
Fire department,	616,055	13
Courts,	295,358	57
Interest and sinking fund, funded debt, .	975,408	00

["] 22 Statutes at Large, 470; 30 *ibid.*, 526. *Myers v. District of Columbia*, 25 App. D. C., 132. As to the manner in which District revenues are handled by the federal treasury see Decisions of the Comptroller of the Treasury, XIV, 646, and Report of the Auditor of the D. C. for 1908, pp. 5-8.

["] 25 Statutes at Large, 808.

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Water department, aqueduct and filtration plant,	\$753,983	68
Health department,	88,973	20
Militia,	76,190	30
Electrical department,	95,047	64
Free public library,	54,644	18

Unless otherwise specified by law all accounts for the disbursement of appropriations for the District of Columbia are audited by the auditor of the District of Columbia before being transmitted to the accounting officers of the federal treasury.^{**} However, there are so many exceptions to this rule that the accounts of the auditor of the District of Columbia do not show the total expenses of the District, and cannot do so until all District appropriations are made payable through the disbursing officer of the District and subject to local audit.^{**} Accounts of the District of Columbia, after being approved by the auditor of the District, are also passed upon by one of the auditors of the Treasury Department before being paid.^{**}

From the safeguards with reference to its financial affairs, it is clear that the District of Columbia has little opportunity to accumulate a floating debt. Practically the only floating debt which the District ever has is that arising from judgments of courts and from other small liabilities which could not be anticipated and included in the appropriations for the year, such indebtedness remaining unpaid until provision is made for it by Congress in the appropriation act for the succeeding year. The Commissioners cannot affirmatively incur liabilities in excess of appropriations actually made.

Extraordinary Expenses and Unfunded Debt.—From 1880 to 1900 the finances of the District of Columbia were in a pros-

^{**} 30 Statutes at Large, 526.

^{**} Report of the Commissioners for 1907, I, 110.

^{**} 20 Statutes at Large, 102, sec. 4, cl. 3.

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perous condition and there were frequent annual surpluses. Since 1900 a number of great improvements have been undertaken at a total estimated cost of nearly eighteen million dollars.²² It has been impossible for the District revenues to bear currently the burden of these enterprises, and in 1901 Congress authorized the Secretary of the Treasury to advance, on the requisition of the Commissioners of the District of Columbia such amounts as might be necessary to meet local expenses authorized by Congress, such advances to be reimbursed to the federal treasury out of the revenues of the District of Columbia within five years, with interest at the rate of two per cent per annum. While the extraordinary expenses have been continuing, new advances have been necessary and reimbursement could not be made to the federal treasury. Congress has, for this reason, each year repeated the authorization for advances, the law of 1909 requiring that reimbursement begin on July 1, 1910.²³ In this way the District of Columbia has accumulated an unfunded debt, and on June 30, 1908, owed \$3,650,563.06 to the United States.

The Commissioners of the District have repeatedly criticised this plan of advances from year to year from the federal treas-

²² Report of the Commissioners for 1907, p. 6. A statement of the auditor of the District made in September, 1908, estimated the cost of such improvements at \$17,889,405.

²³ Act of March 3, 1909. Attention should be called to the fact that this unfunded debt must be paid entirely from the local revenues of the District, in as much as it has been accumulated simply by means of advances or loans from the federal treasury in order to enable the District to meet its one-half of local expenses; that is, the \$3,650,563.06 of debt represents an expenditure of twice this amount, and the federal government has already paid its half of such expenditure. The funded debt of the District is, on the other hand a joint obligation of the District and federal governments, and the United States pays one-half of the annual amount devoted to the interest charge and reduction of the funded debt.

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ury, and have recommended the adoption of a comprehensive and permanent plan for the financing of extraordinary enterprises. The recommendation of the Commissioners involves a distinction between extraordinary and current expenses. According to their plan current expenses are to be defrayed entirely from current revenues; for extraordinary expenditures which have been or may be defrayed in part by means of advances from the federal treasury, repayment with interest should be made from the revenues of the District of Columbia within fifteen years, by means of payments of not less than two hundred thousand dollars per annum, the amount of the payment above this minimum to be determined annually by the Commissioners.* This plan is better than the temporary expedient of annual advances, but does involve a wider departure from the sound policy of "pay as you go." The placing of too many items on the side of extraordinary expenses is apt to cause those in charge of a revenue system to lose sight of the necessity of balancing revenues and expenditures.

However, while the District is making large expenditures for necessary permanent improvements, the whole cost of such improvements cannot be defrayed from current revenues. The congressional plan of annual advances for such improvements is unsatisfactory (1) because not limiting advances to any definite amount and (2) because requiring repayment to the federal treasury in too short a time; it has led and will probably continue to lead to a progressive annual postponement of the day when repayment is to begin. The plan proposed by the Commissioners is also unsatisfactory (1) because not limiting advances to any definite amount and (2) because of the uncertainty as to terms of repayment. It is unwise to leave to the borrower a discretion as to the manner of payment; and if it were left to the

* House hearings on D. C. appropriation bill for 1908, p. 17.

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Commissioners to decide whether to pay two hundred thousand dollars or more, per annum, the pressure of other needs would probably cause them to pay the minimum amount. In contracting a debt there should be a definite certainty both as to the amount of the debt and as to the terms of payment, and these conditions are met by neither of the plans just discussed. It would seem better for Congress and the Commissioners to agree, if possible, upon a definite amount as necessary for permanent improvements; such an amount might then be advanced from the federal treasury, upon the condition that it be repaid in say fifteen equal annual payments. If this were not done, a bond issue might well be authorized, with fairly short term bonds, and with a definite provision for an annual appropriation sufficient to defray the annual interest and to pay the principal at maturity.

Funded Debt.—When the territorial government of the District of Columbia was organized in 1871, it inherited a debt of more than four million dollars from the corporations which is superseded. An additional debt of four million dollars was almost immediately contracted by the new government through the issuance of bonds for the construction of public improvements. Between 1871 and 1874 there was added to this debt of over eight million dollars a large floating debt contracted without legal authority and to a large extent in direct violation of legal limitations. When the territorial form of government was abolished in 1874 the first and second comptrollers of the United States Treasury were appointed a board of audit to examine and audit for settlement all the unfunded or floating debt of the District of Columbia. All claims approved by this board were funded into fifty year bonds guaranteed by the United States and paying 3.65 per cent interest. The board of audit sat for nearly two years and audited accounts amounting to more than thirteen million dollars. In 1880 the jurisdiction of the Court of Claims

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was extended to claims still outstanding against the District of Columbia, judgments of the court to be paid in the above-mentioned fifty-year bonds.* The total issue of such bonds for claims audited by the board of audit and for claims adjudged good by the Court of Claims was limited to fifteen million dollars, and all but twenty-seven hundred dollars of this amount was issued. In 1878 the funded debt of the District of Columbia amounted to \$22,106,650.

When the District finances were put into shape it was found possible to pay interest on the funded debt, and annually to apply some money toward its reduction. The policy was pursued of retiring the shorter term bonds. In 1891 when the twenty-year bonds of 1871 fell due, Congress provided for their redemption by means of ten-year three and one-half per cent bonds redeemable after two years.* These short-term bonds have been retired, and the debt of the District of Columbia, \$10,117,100 on September 30, 1908, is entirely in the 3.65 per cent fifty-year bonds which reach maturity in 1924.

By the terms of the act of June 11, 1878, the Treasurer of the United States is ex-officio commissioner of the sinking fund of the District of Columbia, and has charge of all financial operations relating to the funded debt. By an act of March 3, 1879, Congress provided that there should annually be appropriated a sum sufficient to pay the principal of the 3.65 per cent bonds at maturity, this sum to be annually invested in such bonds at not exceeding their par value, the purchased bonds to be canceled and destroyed. The amount necessary for the payment of interest on the debt and for the sinking fund was estimated at \$1,213,947.97, and this amount was annually appropriated from 1882 to 1903. A new calculation then convinced the Treasury

* 21 Statutes at Large, 284.

* 26 Statutes at Large, 1103.

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authorities that an annual appropriation of \$975,408 would be sufficient to pay interest and sink the outstanding bonds at maturity, and the smaller amount has been appropriated since 1903. In 1903 also the Treasurer of the United States was empowered to invest the sinking fund in United States bonds when the District bonds could not be purchased at an advantageous price.”

The Treasurer of the United States in his report for 1892 has given a good description of the operation of the sinking fund: “All bonds purchased for the sinking fund in accordance with the provisions of the act creating a sinking fund for the 3.65 per cent loan cease to bear interest and are canceled and destroyed in the same manner that United States bonds are canceled and destroyed, but the appropriation being the same amount annually, the sum available for the sinking fund increases from year to year as the interest charge diminishes and is in effect the same as if the bonds purchased were held and the interest collected and applied to the sinking fund.”⁷⁷

⁷⁷ 32 Statutes at Large, 975.

⁷⁸ Fifteenth annual report of the Treasurer of the U. S. on the sinking fund and funded debt of the D. C., p. 10.

CHAPTER VII.

ADMINISTRATION OF JUSTICE.

Residents of the District of Columbia possess all of the civil rights guaranteed by the constitution of the United States, that is, they are fully protected by the constitution in their lives, liberty and property.¹ They also possess in full the rights of a political character guaranteed by the constitution, such as the rights of freedom of speech and of publication, freedom of assembly, of association, and of petition.² But since 1874 they have not enjoyed the political privilege of voting or of taking an active part in their government in any other manner than that of bringing influence to bear upon their rulers. Congress in the exercise of its power of exclusive legislation over the District of Columbia, may grant to its residents rather wide powers of self-government, but since 1874 Congress has denied to the people of the District all legal participation in their government.

In 1901 a code of laws was adopted for the District of Columbia. This code contains the most important legal provisions regarding the courts, crimes, and the private rights of individuals, but does not include all of the laws regarding even these matters. By the first section of this code it was provided that the common law, all British statutes in force in Maryland

¹ *Callan v. Wilson*, 127 U. S. 540; *Capital Traction Company v. Hof*, 174 U. S. 1; *McGuire v. D. C.*, 24 App. D. C., 22.

² For an account of how the people of the District of Columbia participate in their government through the exercise of these rights, see page 263.

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in 1801, the principles of equity and admiralty, all general acts of Congress not locally inapplicable to the District of Columbia and all acts of Congress by their terms applicable to the District of Columbia, should remain in force except where they were inconsistent with or replaced by some provision of the code. The common law is the English customary law which the colonists brought with them when they came to America. Before the Declaration of Independence the English parliament passed laws the provisions of which extended to the American colonies. Since 1801 Congress has been the supreme legislative body of the District of Columbia and all laws passed by Congress which apply to the District either expressly or by implication are in force except in so far as they have been changed or repealed.

In addition to these laws there are in force in the District of Columbia ordinances and regulations adopted by local governing bodies, under authority conferred upon them by Congress; of these there are the ordinances of the city of Washington^{*} and of the levy court of the county of Washington before 1871; the laws and ordinances of a municipal character passed by the legislative assembly of the District of Columbia from 1871 to 1874; and the regulations of the Commissioners since 1878. Where they have not been altered or repealed these local ordinances and regulations are now in force, and they are really laws, but are not called by that name because they are made by bodies which possess only limited powers, and because they relate only to matters of purely local concern.

For the punishment of crime and the settlement of disputes between individuals regarding their rights, there must exist an organized system of courts. Many offenses are of a minor character and many disputes between individuals relate to property which is of slight value. But there are also more serious crimes

* 28 Statutes at Large, 650.

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and private disputes regarding property of great value, and these cases require more careful and thorough treatment than those of less importance. In order to make sure that the individual obtains fair treatment—that justice is done to him—it is provided for most cases that if he is dissatisfied with the action of one court regarding his case he may appeal to still another court.⁴ For the trial of different classes of cases and in order to permit appeals from one court to another it is necessary that there be several courts with different grades of jurisdiction.

It will be well to discuss each of the courts of the District of Columbia, taking them up in the following order: (1) Municipal Court. (2) Police Court. (3) Juvenile Court. (4) Supreme Court of the District of Columbia. (5) Court of Appeals of the District of Columbia. (6) Supreme Court of the United States.

Municipal Court.—Until February 17, 1909, the District of Columbia was divided into six sub-districts, for each of which there was a justice of the peace exercising jurisdiction only within his sub-district. By an act of February 17, 1909, the justices of the peace were replaced by a municipal court, the justices of the peace becoming judges of the new court. The first vacancy that occurs among the present judges is not to be filled, the membership of the new court being thus reduced from six to five. Each judge of the municipal court has jurisdiction

⁴In criminal prosecutions the United States and the District of Columbia have the same right of appeal that is given to the defendant. D. C. Code, sec. 935. However the government cannot appeal in such a case after the acquittal of the defendant nor can a higher court hearing the appeal inquire into the facts upon which the jury acted in reaching its verdict, such action being held to place the defendant twice in jeopardy for the same offense. *Kepner v. U. S.*, 195 U. S. 100; *United States v. Evans*, 30 App. D. C. 58.

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over cases arising anywhere within the District of Columbia; and the court makes rules for the apportionment of business among its several members. The municipal court has jurisdiction in civil cases where the amount involved does not exceed five hundred dollars, and has exclusive jurisdiction in such cases where the thing or amount in question does not exceed the value of one hundred dollars. The municipal court has no power to try criminal cases, but its judges may issue warrants for the arrest of persons accused of criminal acts. Trials before the municipal court are had without a jury. An appeal may be taken to the Supreme Court of the District of Columbia from any judgment or decision of the municipal court where the amount involved exceeds the value of five dollars.

Judges of the municipal court are appointed by the President of the United States acting by and with the advice and consent of the Senate, for a term of four years. No person may be appointed to this office who has not resided within the District of Columbia for the five years immediately preceding his appointment and who has not been engaged in the practice of law before the Supreme Court of the District for five years. The Supreme Court of the District has power to remove judges of the municipal court from office, after proper notice and an opportunity given them to be heard in their defense, for incompetency, habitual drunkenness, corruption, or other misconduct in office. Judges of the municipal court each receive an annual salary of two thousand five hundred dollars. Any one of the justices of the Supreme Court of the District may designate one of the judges of the municipal court to serve in the police or juvenile court, during the absence or disability of a judge of either of the latter courts, or while there is an unfilled vacancy in one of these courts.

Police Court.—The police court is composed of two judges appointed by the President of the United States by and with the

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advice and consent of the Senate, for a term of six years. Each of the judges receives a salary of three thousand six hundred dollars, and they may and do separately hold court at the same time. There are thus two police courts, or rather two sections of the one police court.

The police court has no jurisdiction in civil cases. It has original jurisdiction concurrently with the Supreme Court of the District over crimes and offenses committed in the District of Columbia not capital or otherwise infamous and not punishable by imprisonment for more than one year, except libel, conspiracy, and violation of the postal and pension laws of the United States; and also over all offenses against municipal ordinances and regulations in force in the District of Columbia. That is, persons violating police and other local regulations and those accused of offenses classed as misdemeanors may be tried in the police court. Prosecutions in the police court are on "information" by the prosecuting attorney, and not on "indictment" by a grand jury. In all prosecutions before the police court in which the accused is under the constitution entitled to a jury trial, the trial may be by jury, but the accused may in open court waive trial by jury and request that the trial be by the judge alone. All trials are held without a jury where the punishment is a fine of less than fifty dollars or imprisonment for less than thirty days. If either the accused or the prosecuting officer is dissatisfied with the action of the police court he may appeal to the Court of Appeals of the District of Columbia. Unless appealed from the judgment of the police court is final in all cases tried before it.

Juvenile Court.—It is of more benefit to the community to prevent crime than it is to punish those who have done wrong. The criminal laws are made and must be enforced because wrongs committed by a few people will injure all others in the community. The object of punishment is to prevent such crim-

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inal acts, but criminal offenses are often committed thoughtlessly by people who are not really bad. So in a large city passers-by will be in danger if children play base ball or other such games in the streets. The game is innocent but the danger to others makes it necessary to forbid such amusements. Then too, poor children will often do things that are wrong, as for example the stealing of small articles, because of the fact that they are hungry or in want. On the other hand there are hardened criminals—men or women who do not do honest work and who get their living by theft or by other worse crimes.

It is not fair to the boy of sixteen who has done something wrong for perhaps the first time that he should be treated in the same manner as a hardened criminal. It may be and often is well to lock up the man who commits crime, to prevent his injuring other people. But if it can be done it is much better to teach a person to do right, and to help him to become a useful citizen rather than to put him into prison. The man who has committed crime for years is frequently such a menace to others that he cannot be allowed to go at large, and often too he has become so hardened that there is little chance of changing his habits. But the boy or girl who commits a criminal offense often does so thoughtlessly or because of bad home surroundings. It is possible to bring good influences to bear upon them and to prevent their becoming habitual criminals. To force them to associate with hardened criminals is simply to teach them habits of crime.

The people brought before the police court are apt usually to belong to a low and criminal class, and the language often used in such a place by persons brought there for trial is such as a child should not be allowed to hear. On this account the Commissioners of the District of Columbia in 1901 made arrangements with the police court by which juvenile offenders, that is, boys and girls arrested for wrongful acts, should be tried sep-

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arately by the police court and not at the same time as older persons arrested for criminal offenses.¹ This arrangement, which was a great improvement over the old method, continued until 1906 when Congress passed a law creating a separate juvenile court.²

The juvenile court has original and exclusive jurisdiction over all crimes and offenses committed by persons under seventeen years of age, except libel, conspiracy, violations of the postal and pension laws of the United States, capital or otherwise infamous crimes, and crimes punishable by imprisonment for more than one year. This court also has power to try and punish any grown person who is responsible for or in any way encourages a child to commit a wrongful act; to try and punish persons guilty of violations of the law regulating the employment of children; and to try and punish any man who wilfully deserts or fails to support his wife, and any man or woman who wilfully fails to support his or her children under sixteen years of age.³

Prosecutions in the juvenile court are on "information" of the corporation counsel of the District of Columbia or of his assistant. In cases where the constitution of the United States requires it, trials are by jury unless the accused person in open court waives jury trial and requests to be tried by the judge. In all other cases the trial is without a jury, and jury trials are infrequent. If anyone thinks that he has been improperly dealt with by the juvenile court he may submit his objection by petition to a justice of the Court of Appeals and if such objections are thought sufficient his case will be heard on appeal in the Court of Appeals. The judge of the juvenile court is appointed by the President of the United States, acting by and with the

¹ Report of the Commissioners for 1905, p. 12; 1906, p. 8.

² 34 Statutes at Large, 73.

³ 34 Statutes at Large, 86; U. S. Statutes, 1907-08, Part I, p. 420.

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advice and consent of the Senate, for a term of six years, and may be removed by the President for cause. He receives an annual salary of three thousand dollars.

While the juvenile court has jurisdiction over criminal offenses of persons under seventeen years of age it is not primarily a criminal court. It may hear and determine the cases of all children under seventeen charged with habitual truancy; has under its control the enforcement of the law which requires parents to support their children; sees that dependent children are properly cared for, either by sending them to charitable institutions or by committing them to the Board of Children's Guardians;^{*} and has power to take children away from homes where they are cruelly treated or where their home surroundings are improper. If parents fail properly to train and care for their children the government steps in and either forces the parents to do their duty or assumes a share in the training of such children.

The procedure of the juvenile court in the exercise of its powers is necessarily somewhat informal. A child brought before it is not treated as a criminal, but the judge investigates the facts of each case in the simplest manner and decides what shall be done. In the case of children found guilty of having violated the law the judge may, if he thinks proper, send such children to a reform school where they will receive proper moral and mental training. He may, however, and does in most cases release the guilty child on parole, that is, upon his promise to comply with certain conditions. The child is sentenced, but sentence is suspended and he is placed under the care of a probation officer to whom he must report frequently, the time for reporting usually being once every two weeks. A child on parole

* 27 Statutes at Large, 268; 31 *ibid.*, 1095; D. C. Compiled Statutes, 539. For a discussion of the Board of Children's Guardians, see page 156.

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is subject to such rules as the court may make, and if he fails to keep the terms of his parole he may be brought again before the court which may send him to a reform school¹⁹ or take such other steps as it thinks proper. By this system of watching over delinquent children they are taught habits of self-reliance, and have perhaps better influences brought to bear upon them than exist in their own homes. For the purpose of looking after children who are on parole the judge of the juvenile court appoints three probation officers, who perform their duties under his direction and may be removed by him. A grown person convicted of encouraging children to commit wrongful acts may also be released on parole in a similar manner. A man convicted of wilfully refusing to support his family may be released on parole upon his agreement to pay a weekly sum for the support of his wife or children for a period of one year, or if he is sent to the workhouse fifty cents per day will be allowed for their support for each day's hard labor performed by him during his imprisonment.²⁰ There has been some agitation for the extension of the probation system to practically all first offenders among adults but little has yet been accomplished in this direction.

Supreme Court of the District of Columbia.—The Supreme Court of the District of Columbia is composed of a chief justice and five associate justices, appointed by the President of the United States, by and with the advice and consent of the Senate, and holding their offices during good behavior. The chief justice and each associate justice receive annual salaries of six thousand dollars.

This court holds a general term and special terms. The general term is a meeting of all of the justices or of any three

¹⁹ See a discussion of the reform schools, page 159.

²⁰ 34 Statutes at Large, 86.

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of them and does not try cases. The court meets in general term for the purpose of regulating its special terms, dividing the business among its several members, establishing rules for the conduct of its business, for the appointment of the necessary officers of the court, for the purpose of admitting persons to practice before its bar and of dismissing them, and in order to hear charges of misconduct preferred against judges of the municipal court and to remove them from office if sufficient reason is shown for such action.

All cases are tried before some one of the justices of the Supreme Court acting in special term. The special terms are known as the circuit court, the criminal court, the district court of the United States, the equity court, the probate court, and the bankruptcy court. In its general term the court may provide for more than one session at the same time of any special term, and as the court is now organized there are two equity courts, two circuit courts, and two criminal courts sitting at the same time; that is, there are so many cases before these courts that it is necessary to have two judges acting separately in each of them in order to keep up with their work. As there are only six justices, each of them acts in some one of these three courts, and three of them must thus act as justices in two special terms—one justice will sit both in the equity court and in the probate court; another will act both in the criminal court and the district court of the United States; and still another both in an equity court and in the bankruptcy court.

All common law civil cases in which the amount involved exceeds five hundred dollars are tried in the circuit court, which also hears appeals from the municipal court and has concurrent jurisdiction with that court in cases involving more than one hundred dollars. The criminal court has jurisdiction over all crimes and misdemeanors committed in the District of Columbia, except misdemeanors over which the juvenile court is given ex-

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clusive jurisdiction. The criminal court has concurrent jurisdiction with the police court over petty offenses and misdemeanors, which may be tried in either court at the discretion of the prosecuting officer. Such offenses are usually tried in the police court.

The district court has the same jurisdiction as other district courts of the United States, except with reference to cases which fall within the jurisdiction given to some one of the other special terms. This jurisdiction relates principally to admiralty cases, and to suits arising out of the enforcement of federal laws. This court also has jurisdiction over all proceedings instituted in the exercise of the right of eminent domain. The district courts of the United States have jurisdiction also in cases arising under the bankruptcy laws, but in the District of Columbia a special term of the Supreme Court is held for the consideration of such cases.

The equity court has jurisdiction over all cases in equity and over all petitions for divorce, except where power in such cases is granted to the probate court. In the administration of justice in civil cases a broad distinction is made between remedies at common law and remedies in equity. The reasons for this distinction are mainly historical, and rested upon the fact that the regular courts often did not have the power to do justice between the parties who came before them. This led to the development of distinct courts which would protect the rights of an individual when there were no means of his obtaining protection in the courts of common law. With us courts of equity now have definite jurisdiction, of which the most important part relates to the protection of insane persons, and to a certain extent to the property rights of married women; to property held in trust by one person for another; to mortgages; to the protection of the rights of a person against the fraud of another, and in some cases against the result of accident or of his own mistake.

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By means of an equitable writ called an injunction a court of equity may forbid either temporarily or permanently, the doing of an act which would injure the rights of another. The fundamental distinction between procedure in a court of equity and that in a court of common law is that the common law court uniformly acts with a jury, while in a court of equity justice is administered by the judge acting alone.

The probate court has general jurisdiction over property of deceased persons, over the property rights of infants, and over the appointment of guardians for infants. When a person dies all of his property must necessarily go to new owners. If the deceased person has not by a will designated to whom his property shall go, it will be distributed in accordance with rules fixed by law. A will must be "probated" or proven before property can be disposed of under it, and the probate of wills takes place in the probate court. An officer called the register of wills, who is appointed by the President of the United States and holds office during good behavior, has charge of the recording of wills and acts as clerk of the probate court. If anyone interested in the property sought to be disposed of by a will, claims that the will is not valid, that for some reason it is not a legal will, the case between the parties is tried and decided by the probate court, acting either with or without a jury. If a person owning property dies intestate, that is without having made a legal will, the probate court has control over the distribution of his property in accordance with rules fixed by law. The active management of property left by a deceased person is entrusted to a person who is called an executor when named in a will, and an administrator when appointed by the court. Executors and administrators are officers of the court, and are subject to its control; their acts are subject to its approval or disapproval and after all of the property under their care has been disposed of,

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their accounts are subject to allowance or disallowance by the court.

Court of Appeals.—The Court of Appeals of the District of Columbia is composed of one chief justice and two associate justices, who are appointed by the President of the United States, acting by and with the advice and consent of the Senate, and hold office during their good behavior. The chief justice receives an annual salary of seven thousand five hundred dollars, and each associate justice an annual salary of seven thousand dollars.

The Court of Appeals has jurisdiction over cases appealed from the Supreme Court of the District of Columbia and from the police and juvenile courts. The Court of Appeals also hears appeals from the decisions of the Commissioner of Patents. The Commissioner of Patents is at the head of the United States Patent Office; when two or more persons apply for patents for similar inventions he decides which person shall have the patent, and also whether a patent applied for conflicts with some invention already patented. From his decision there is an appeal to the Court of Appeals. All opinions of the Court of Appeals must be delivered in writing, and are published under the direction of a reporter appointed by the court.

Supreme Court of the United States.—The Supreme Court of the United States is composed of one chief justice and of eight associate justices, who are appointed by the President of the United States by and with the advice and consent of the Senate, and serve during good behavior. The chief justice receives an annual salary of thirteen thousand dollars, and each associate justice an annual salary of twelve thousand five hundred dollars.

The Supreme Court is not only the highest court in the United States; it is also the final court of appeal for cases arising within the District of Columbia. In civil cases any final judgment or decree of the Court of Appeals may be re-examined, and affirmed, reversed, or modified by the Supreme Court of the

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United States in all cases in which the matter in dispute exceeds the sum of five thousand dollars; and also in all cases, without regard to the sum or value of the matter in dispute, which involve the validity of any patent or copyright, or which draw in question the validity of a treaty or statute of, or an authority exercised under, the United States. Any criminal case heard on appeal by the Court of Appeals may be reviewed in the Supreme Court of the United States. The Supreme Court of the United States also hears appeals in bankruptcy cases from the Supreme Court of the District of Columbia. In all cases affecting ambassadors, other public ministers, and consuls the Supreme Court of the United States has original jurisdiction.¹¹

Tenure of Judges.—The Supreme Court and Court of Appeals of the District of Columbia, together with the Supreme Court of the United States, come within the constitutional provision that their judges “shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation which shall not be diminished during their continuance in office.”¹² Judges of these courts may be removed only by impeachment. As regulated by the constitution of the United States impeachment consists of an accusation brought against a person of high crimes and misdemeanors by the House of Representatives, and a trial of the accused person by the Senate. Two-thirds of the Senators present must concur in order to convict the accused person. Judgment in cases of impeachment cannot extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

¹¹ Constitution, III, sec. 2, cl. 2.

¹² Constitution, III, sec. 1. 16 Statutes at Large, 426. The question of the applicability of this clause to the District of Columbia has never come before the Supreme Court of the United States. See U. S. v. More, 3 Cranch 159, and James v. United States, 202 U. S. 401.

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Court Rules.—The laws by which courts are organized do not regulate their procedure in detail, and the courts are vested with power to make such rules and regulations as may be necessary and proper for the conduct of their business. This is really a legislative power, and must be exercised in subordination to the laws relating to the court. A court cannot extend its jurisdiction in any way or make rules that are in violation of the laws. Rules for the several special terms of the Supreme Court of the District of Columbia are made in the general term of that court; rules of practice and pleading before judges of the municipal court and in relation to appeals from their judgments are also made by the general term of the Supreme Court. Rules of practice under the bankruptcy law are made by the Supreme Court of the United States.

Officers of the Courts.—Every court must have other officers besides judges. The municipal court, police court, juvenile court, Supreme Court, and Court of Appeals each appoints its clerks and may remove them at pleasure. Judgments of the courts of the District of Columbia are executed by a United States Marshal, who is appointed by the President of the United States, by and with the advice and consent of the Senate, for a term of four years. Bailiffs appointed by the judges of the police court act as deputies of the United States Marshal, and a deputy of the marshal is also designated for service in the juvenile court. All processes issued by the courts are served by the marshal, or, if he is disqualified, by the coroner. The probation officers carry out many of the orders of the juvenile court. The coroner, while a judicial officer, is really not the officer of any one of the regular courts. His duty is to hold an inquest or inquiry over the body of any person found dead, where the manner and cause of death is not known. For this purpose he summons a jury of six persons. The coroner is appointed by the Commissioners of the District of Columbia and

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makes a monthly report to them. Commissioners of deeds and notaries public, who also have some duties of a judicial character, are appointed by the President of the United States for a term of five years, and are removable at his discretion. A recorder of deeds for the District of Columbia is appointed by the President of the United States, by and with the advice and consent of the Senate.¹³

In both civil and criminal cases the two opposing parties are usually represented by attorneys. In criminal cases either the District of Columbia or the United States is the prosecutor; many civil cases also come before the courts in which either the United States or the District of Columbia is interested. The District of Columbia as a municipal corporation is liable in the courts for injuries which anyone may suffer because of defective streets, of the condition in which it keeps its public buildings, or of injury resulting to a person through the carelessness of its employees.¹⁴ It is a general principle that the government cannot be sued without its consent, and this principle applies to the United States and to the states, but not to municipal corporations, which are liable in the courts just as are private individuals to be sued for damages because of injury which they may occasion by the careless use of their property or the negligence of their employees. For the protection of the interests of the District of Columbia before the courts, and for the prosecution of violations of all police and municipal ordinances and regulations or of violations of laws in the nature of police regulations, where the maximum penalty is a fine or imprisonment not exceeding one year, the Commissioners of the District of Columbia appoint a corporation counsel. For the protection of the interests of the United States government before the courts and

¹³ D. C. Code, secs. 548-556.

¹⁴ *D. C. v. Woodbury*, 136 U. S. 450; *Roth v. D. C.*, 16 App. D. C. 323; *D. C. v. Whippes*, 17 App. D. C. 415.

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for the prosecution of all criminal cases except those mentioned above, there is a United States Attorney for the District of Columbia, who is appointed by the President of the United States, by and with the advice and consent of the Senate, for a term of four years. Private parties who appear before the courts are also in most cases represented by attorneys.

Lawyers are officers of the court. Their profession is one which bears a close relation to the administration of justice, and regulations for admission to practice law are made by the courts. The Supreme Court of the District of Columbia has power to make such rules as it thinks proper regarding the qualifications, examination, and admission of attorneys to practice. Except where an applicant is already a practicing attorney in some state or territory or in the United States courts, the Supreme Court has made regulations which require that an applicant for admission to practice law shall show good moral character and pass an examination given under the direction of the court, after having spent at least three years in the study of law. Any court within the District of Columbia may suspend or dismiss from its bar an attorney who is convicted of an offense involving moral turpitude. An attorney guilty of dishonest or improper practices may be proceeded against by the Supreme Court of the District of Columbia, he having notice and an opportunity to be heard, and either suspended or dismissed from its bar.

Pardons; Prisons; Extradition.—The President of the United States has power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment. All offenses prosecuted by the United States Attorney for the District of Columbia are offenses against the United States. The Commissioners of the District of Columbia may grant pardons and respites for offenses against the municipal ordinances, police and building regulations of the District of Columbia.¹⁵

¹⁵ 27 Statutes at Large, 22.

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When any person is sentenced to imprisonment for a term not exceeding six months, the court may direct that such imprisonment shall be either in the workhouse or in the United States jail of the District of Columbia. Any person sentenced for a term longer than six months but not longer than one year is imprisoned in the jail, except that men convicted of not supporting their families may be committed to the workhouse for a period not exceeding one year. A person sentenced to imprisonment for more than one year is imprisoned in one of the penitentiaries of the United States.

When a person accused of crime in any state or territory flees to the District of Columbia and the governor of such state or territory requests that he be given up, the chief justice of the Supreme Court of the District of Columbia, to whom such request or "requisition" is addressed must cause the fugitive from justice to be apprehended and delivered up to the authorities of the state from which he has fled. A person accused of crime in the District of Columbia who flees from the District may also be apprehended and brought back for trial and punishment.

CHAPTER VIII.

POLICE AND MILITIA.

Police.—Until the commencement of the Civil War the police of the District of Columbia were under the control of the several corporations of Washington City, Georgetown, and Washington County. When the war began and Washington became the center of military operations, a strongly centralized police organization became necessary to control the lawlessness and disorder always attendant upon the gathering together of large bodies of military forces. By a law of August 6, 1861, the District of Columbia was erected into a metropolitan police district. A police board of five members was established, and its members were appointed by the President of the United States, by and with the advice and consent of the Senate, for the term of three years, one from Georgetown, three from the city of Washington, and one from the county of Washington. The mayors of the cities of Washington and Georgetown were ex-officio members of this board. This board was given full control over the police force of the District of Columbia, and was required to see that peace was preserved in the District, persons and property protected, and crime prevented or controlled.¹ The police administration of the District of Columbia remained under the authority of this board until 1878, when Congress abolished the board of metropolitan police and transferred all of its powers to the Commissioners of the District of Columbia.²

¹ 12 Statutes at Large, 320.

² 20 Statutes at Large, 107.

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The Commissioners have since 1878 remained in complete control of the police administration of the District of Columbia, and have authority to appoint, assign to duty, and promote members of the police force in accordance with rules which they, the Commissioners, may make. The Commissioners are authorized to make rules and regulations for the proper government and discipline of the police force, and to enforce their regulations by the imposition of such penalties as they may think necessary.

As the executive head of the police department the Commissioners appoint a major and superintendent of police, who receives an annual salary of four thousand dollars. The organization of a police force is necessarily similar in many respects to that of a military body. As now organized the police force is composed of one major and superintendent, an assistant superintendent, three inspectors, eleven captains, twelve lieutenants, forty-five sergeants, and six hundred and fifty-nine privates. In addition there are clerical and other necessary employees. Privates are divided into three classes, according to their length of service; those who have served for less than three years are in class one; those who have served for three years and whose conduct has been meritorious are promoted to class two; the members of class two whose conduct justifies promotion are advanced to class three after five years of service in class two. The members of the third class receive the highest salaries and the members of the first class the lowest salaries. Original appointments to the police force are made to class one, and promotions are made in order of seniority, where the conduct of the police officers justifies promotion. The District of Columbia is divided into eleven precincts, in each of which there is a police station. Each precinct is in command of a captain of police. There is also a house of detention for the temporary confinement of females and of children.

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Appointments and promotions of officers and members of the police force are made by the Commissioners of the District of Columbia. Under the regulations of the Commissioners a person to be eligible for appointment must be able to read and write the English language, be a citizen of the United States and have been a resident of the District of Columbia for two years prior to his appointment, and must come within certain standards as to height, age, physical condition, and moral character. Each applicant must stand a civil service examination and attain an average of not less than seventy per cent. There is no legal provision requiring civil service examinations for admission to appointment on the police force of the District of Columbia, but such a system is maintained by the Commissioners under their general authority to make such appointments, and the examinations are held by the Civil Service Commission of the United States.

The Commissioners are empowered to fine, suspend with or without pay, or dismiss any officer or member of the police force for any offense against the laws of the United States, or against the laws, ordinances, or regulations of the District of Columbia, or for the violation of the rules and regulations made for the conduct and discipline of the police force. However, police officers retain their positions during good behavior. No person may be removed from the police force except upon written charges preferred against him in the name of the major and superintendent of police, and after he has been given an opportunity to be heard in his own defense before a trial board constituted for the purpose of hearing the charges against him. Minor infractions of discipline are passed upon by the major and superintendent of police, but all other trials of members of the police force are held before a trial board, composed of an assistant corporation counsel, a captain and a lieutenant of police. The Commissioners appoint the members of these trial

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boards, and have full power to determine how they shall be organized, and to make rules for their procedure. Trial boards have power to issue subpoenas to compel the attendance of witnesses.* The findings of a trial board are final and conclusive, unless an appeal in writing from such findings is made to the Commissioners within five days. From the decision of the Commissioners there is no appeal. No member of the police force is permitted to resign without having given one month's notice. There are four police and fire surgeons whose duty it is to examine applicants for appointment to and for retirement from the police and fire departments; to render medical service to the members of these departments when they are ill; and to examine and attend insane and sick and injured persons taken in charge by the police.⁴

It is difficult to indicate briefly the duties of members of the police force. The arrest of persons who violate the laws and police regulations forms really but a small part of their daily work. The prevention of crime is more important than the arrest of offenders after crime is committed, and the guarding of a city day and night by a sufficient number of police officers is the most effective means of preventing crime. In addition to the work of preventing crime and of arresting those who violate the laws, the police maintain order at public meetings. They keep the way clear for street processions and parades. They stand guard at dangerous street crossings and help pedestrians over. They catch runaway horses. They take care of lost purses and parcels. They give information about the city to strangers.⁵ They control the traffic of vehicles on the streets, turn in fire alarms and preserve order at fires, see that proper attention is rendered to those who are injured or who fall sick

* 29 Statutes at Large, 10.

⁴ 31 Statutes at Large, 819; 34 *ibid.*, 221, 1252.

⁵ Wilcox, *The American City*, 181.

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in the streets, and perform many other services of a similar character.

Twenty members of the police force are detailed as detectives, and devote their whole time to the detection or prevention of crime. Mounted men and police officers on bicycles are assigned to special duties. For the enforcement of laws and regulations relating to the harbor and to the navigable waters within the District of Columbia there is a harbor master with the rank of lieutenant, who has a number of police officers under his command. The duties of the harbor master are to superintend the anchoring, loading, and unloading of vessels, to regulate the use of wharves, to guard against fires, to maintain order, to rescue persons in danger of drowning, and to recover the bodies of drowned persons.* Special policemen, paid by the street railway companies, are stationed at important street railway crossings within the city of Washington; and the Commissioners may, upon the application of any corporation or individual, appoint special policemen, to guard the property of and to be paid by such corporation or individual.'

The duties of policemen are of a dangerous character and it is necessary that there should be provided some means for their support when they are injured in the performance of their duties, or when after long service they have become disabled; and for the maintenance of their families should they die of injury or disease contracted in the police service. For this purpose there is a police relief fund, made up from the sale of abandoned property and of unclaimed stolen property, from fines imposed upon and collected from policemen, from a part of the receipts from police court fines and from dog taxes, and by means of the retention of one dollar each month from the pay of every officer

*Police Regulations, 113; Police Manual, 67.

'30 Statutes at Large, 489, 1057.

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and member of the police force. This fund is deposited with the Treasurer of the United States and is used for the payment of pensions to police officers disabled in the performance of their duties or retired after not less than fifteen years of service, and also for the payment of pensions to widows, children, or dependent mothers of police officers whose death may have been caused by injury or disease contracted in the service.⁸ Persons on the police pension rolls because of disabilities incurred in the service are required to undergo a medical examination once in every two years in order to determine whether the disabilities still exist.⁹

The business of a private detective is one which bears a close relation to the control of crime, and is liable to abuse because private detectives engage in the same functions as do public police officers. On this account no person is permitted to practice as a private detective until after he has received specific authority to do so and has entered into bond to the amount of not less than ten thousand dollars to report to the superintendent of police all business which he transacts. Private detectives must be registered in the office of the superintendent of police.¹⁰

Stolen property is frequently carried to pawn shops, junk dealers, or dealers in second hand personal property. In order to recover stolen property and to detect thieves it is therefore necessary that these businesses be carefully regulated and be always subject to police inspection. No person without a license is permitted to engage in business as a pawnbroker, junk dealer, or dealer in second-hand personal property. Every person engaged in either of these businesses is required to keep a

⁸D. C. Compiled Statutes, 374, 381; 29 Statutes at Large, 192; 31 *ibid.*, 820; 33 *ibid.*, 821; 34 *ibid.*, 1003.

⁹U. S. Statutes, 1907-08, Part I, p. 296.

¹⁰D. C. Compiled Statutes, 383; 31 Statutes at Large, 819; Police Manual, 73.

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book in which is entered a description of each article pawned or purchased; the time of the transaction; the name, residence, and description of the person from whom it was received; and the conditions of the loan or purchase. A daily report of such transactions must be made to the superintendent of police, and the books and premises of such establishments are always subject to examination by members of the police force.¹¹

Laws have been passed by Congress for the protection of fish and game in the District of Columbia. Certain destructive methods of fishing are forbidden. Restrictions are placed upon the hunting of birds and other animals. The enforcement of the fish and game laws is in the hands of the members of the police department.¹²

Militia.—The militia is divided into two classes, the organized and the reserve militia. Every able-bodied male citizen who resides in the District of Columbia and who is more than eighteen and less than forty-five years of age, and every able-bodied male foreigner within these ages who has declared his intention of becoming a citizen of the United States, are members of the militia of the District of Columbia. All such persons who do not form part of the organized militia are members of the reserve militia.

The organized militia is known as the "national guard," and is composed of volunteers who are uniformed, organized into regular companies and regiments, armed, and subject to periodical military drills and inspections. In 1908 the strength of the national guard of the District of Columbia was one thousand three hundred and thirty-five men. In addition, there is a battalion of naval militia with a strength of two hundred and forty-five men. The President of the United States is commander-in-chief of the militia of the District of Columbia, and

¹¹ Police Regulations, 10-12, 101-104.

¹² Police Regulations, 105-112.

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appoints an officer with the rank of brigadier-general who acts as commanding general of the militia. Upon the nomination of the brigadier-general the President of the United States appoints a retired officer of the United States Army as adjutant-general of the District militia.¹²

In case of invasion or rebellion the President of the United States may call the national guard into active service. When there is a tumult or riot in the District of Columbia, or when tumult, riot, or organized resistance to the law is threatened, and the public peace cannot be preserved by the regular police authorities, the Commissioners of the District of Columbia, or the United States Marshal for the District of Columbia, may call upon the President of the United States to aid them in enforcing the laws. When appealed to in this manner, the President, as commander-in-chief of the militia, has power to order out such a portion of the militia as he may consider necessary to preserve the peace and suppress disorder.

The commanding general of the militia of the District of Columbia, subject to the approval of the President of the United States, has power to make regulations for the government of the militia in all matters not specifically provided for by law, or by federal regulations, such regulations conforming to the practice and regulations of the United States army. Armories are provided for the storage of arms and equipment of the national guard, and as places for drills and inspections. Uniforms, arms, ammunition for target practices, and equipment are supplied at the expense of the United States government. The administrative expenses of the national guard and the cost of encampments are borne one-half by the District of Columbia and one-half by the government of the United States. The commanding general of the militia transmits to the Commissioners of the Dis-

¹² 31 Statutes at Large, 671.

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trict of Columbia an annual estimate of the necessary expenses of the militia for the succeeding year, and the Commissioners are required to include this estimate in their annual estimates for the District of Columbia.¹⁴

¹⁴ D. C. Compiled Statutes, 385-395; 32 Statutes at Large, 775; Act of February 18, 1909. Regulations governing the organized militia (Washington, 1908).

CHAPTER IX.

CHARITIES AND CORRECTION.

It is the duty of every man to take care of himself and to provide for his family. The duty of providing for those who are dependent upon him is enforced by law, and any man who wilfully neglects to provide for the support of his wife or minor children is guilty of a misdemeanor.¹ It is the duty of parents to support their children, and child labor is an injury in that it prevents the child from becoming as useful a member of society as he might otherwise be. The compulsory school law requires children to attend school between the ages of eight and fourteen; and the child labor law forbids work by children under fourteen years of age except where a child between the ages of twelve and fourteen has received a special permit from the judge of the juvenile court.²

Society is under no obligation to aid those who are able to help themselves; but there are many who because of misfortune or of physical or mental defects are unable to care for themselves, and to people of this class society does owe a duty. Those for whom charitable or correctional aid may be necessary are usually divided into the three classes of dependents, defectives, and delinquents. The class of dependents includes children who may be orphans or whose parents are unable to support them, old people who have ceased to be able to support themselves, people with

¹34 Statutes at Large, 86.

²34 Statutes at Large, 219. U. S. Statutes, 1907-08, Part I, p. 420.

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diseases which unfit them for work, and persons who can support themselves but who are too lazy to work and provide themselves with food, clothing, and shelter. Defectives are those who because of physical or mental defects are unable to care for themselves; such are the insane, and to a less extent, the blind, deaf, dumb, and the deformed. Delinquents are those who have violated the law and who must be kept under control either for the protection of others or in order that they may be taught better methods of conduct. In addition to these general classes of individuals there are frequent cases in every large city where a person is injured or taken sick and must immediately be given proper medical or surgical attention.

It is necessary that there be some systematic plan for giving aid to those who need it. It is unfortunately true that in every community there are numerous professional beggars who make good livings by preying upon the feelings of others. Again the indiscriminate helping of families in want or seemingly in want often leads the persons helped to rely too much on public charity and to make little effort to help themselves. On this account every local government has some board or agency to see that charitable aid is properly given.

In the giving of charitable aid there are two well-defined methods of proceeding; one is called indoor relief and the other outdoor relief. By indoor relief is meant the placing of those who need public relief in institutions, as the putting of the poor in almshouses and the placing of the insane in asylums. The system of outdoor relief is that of aiding the poor in their own homes; of providing food, clothing, and fuel for them when needed, and of giving them what may be necessary to support them, in addition to what they may be able to earn. In the District of Columbia the government controls much the greater part of the field of indoor charities, and leaves the relief of the poor

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in their homes almost entirely to individuals or to private organizations.

Board of Charities.—The official control of charities is vested in a board of charities composed of five residents of the District of Columbia, appointed by the President of the United States, by and with the advice and consent of the Senate. The members serve for three years but are appointed in such a manner that not more than two of them retire in the same year; they serve without compensation. The board appoints a secretary and other necessary officers for whom appropriations are made by Congress. The secretary has the general direction of the work of the board. Regular meetings of the board of charities are held at least once a month.

It is the duty of the board of charities to visit, inspect, and maintain general supervision over all institutions, societies, or associations, of a charitable, correctional or reformatory character which are supported in whole or in part by congressional appropriations made for the care or treatment of residents of the District of Columbia. No member of the board of charities is permitted to serve as a trustee or as an administrative officer of any institution subject to the supervision of the board, and no member or employee of the board is allowed to be either directly or indirectly interested in any contract for building, repairing, or furnishing such an institution. Except in the cases of persons committed by the courts and of abandoned infants needing immediate attention, no payments are made to institutions unless they conform to the rules established by the board of charities. All plans for new charitable institutions are required to be submitted to the board of charities for approval before they are adopted. Institutions subject to the supervision of the board may at any time be required to furnish such information as the board may desire. The Commissioners may at any time order an investigation by the board of charities or by

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a committee of its members, into the management of any penal, charitable, or reformatory institution within the District of Columbia, and in making such an investigation the board of charities has power to send for persons and papers and to administer oaths. The board makes an annual report to Congress through the Commissioners of the District of Columbia, giving a full account of all matters placed under its supervision, of all officers and agents in its employ and of its expenses in detail; with the report of the board must be presented a report of its secretary showing the actual condition of all institutions under the supervision of the board; in fact a detailed report of each institution is annually presented and printed with the report of the board of charities. The annual report of the board also contains such recommendations as may be thought necessary for the more efficient and economical administration of the charitable institutions of the District; and includes estimates of appropriations desired for the conduct of the work of the board during the succeeding year.*

As is seen from the limitations placed upon the board of charities its powers extend only to the supervision of charitable institutions and agencies supported in whole or in part by means of congressional appropriations. It has no control over charities of a purely private character. Many of the charitable institutions of the District are owned by and are under the absolute control and management of the government, but in the conduct of its work the board of charities also makes use of numerous institutions which are under private management. In appropriating money to pay for services performed by private institutions Congress may pursue either of two alternative plans: (1) that of granting each institution an annual lump sum without

* 31 Statutes at Large, 664. 23 Opinions of the Attorney-General, 287. Act of March 3, 1909 (Public No. 321).

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much reference to the actual quantity and quality of service rendered, or, (2) that of annually appropriating an amount to be used by the board of charities in making contracts with such institutions, the payments under this plan being in exact proportion to the charitable work done by the institution. The contract system is clearly the preferable one and has now been adopted in almost all cases within the District of Columbia.

In the exercise of its control over charitable institutions and agencies the board of charities investigates each case presented to it in order to find out whether the person to be aided is properly chargeable to the District of Columbia. If such a person is properly a resident of some other community he should be supported by that community if he is a public charge. If, upon investigation, a person is found not to be chargeable to the District of Columbia, the board of charities has him transported to the place of his proper residence. The cost of transportation may be a heavy expense at the time, but it amounts to little as compared with the cost of maintaining a pauper or insane person for five, ten, fifteen, or more years. Because of the great number of visitors who are constantly in Washington many persons might become public charges who are returned to their homes and thus relieve the District government of the financial burden of supporting them.

For the conduct of its business the board of charities is organized into four standing committees upon the subjects of (1) medical charities, (2) child-caring work, (3) reformatories and correctional institutions, (4) miscellaneous institutions. It will be well to discuss the activities of the board under these four headings.

Medical Charities.—There are some fifteen hospitals and medical dispensaries which come under the supervision of the board of charities. Two of these institutions, the hospital of the Washington Asylum, and the Tuberculosis Hospital, are government

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institutions and are entirely under the management of the board; the other thirteen are under the supervision of the board, but under private management, and receive aid from the government either by means of lump sum appropriations or by contracts entered into with the board of charities.

There are a number of physicians to the poor, who are appointed by the Commissioners of the District of Columbia upon the recommendation of the health officer and who each receive the nominal compensation of one dollar for each day's service which they render. In cases which are handled by the physicians to the poor medicine is also furnished at the expense of the District, as are also bandages and dressings. Ice and nurses are usually provided in such cases, when they are necessary, by private charitable agencies.

Child-caring Work.—A board of children's guardians was established for the District of Columbia in 1892. This board is composed of nine members who serve without compensation. They are appointed by the judges of the police court and the judges holding criminal court, acting together, and may be removed for cause, after being given an opportunity to be heard in their own defense. Of the nine members at least three must be representatives of each sex; they are appointed for three years, and one-third of them retire each year. The board elects from among its members a president, vice-president, and secretary; and, subject to the approval of the Commissioners, appoints an agent and other employees for whom appropriations are made by Congress. The agent is the executive officer of the board.

Commitments of children to the board of children's guardians are made by the juvenile court. The court may commit to the children's guardians children under seventeen years of age whose homes are unsuitable for their care, children kept in vicious or immoral associations or known to be vicious or incorrigible, destitute children or children found beg-

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ging, habitual truants, and in general, any delinquent, neglected, or dependent children whom it is not desired to send to the reform schools. The juvenile court may also remove children from the reform schools and place them under the care of the children's guardians, upon the condition that such children behave themselves properly. Children may be committed to the board of children's guardians either for a limited time or during their minority. No person under seventeen years of age may be placed in any institution supported wholly or partially at government expense until the fact of his delinquency or dependency has been determined by the juvenile court.⁴

The board of children's guardians is the legal guardian of all children committed to it by the court, and has full power to board them in private families or in institutions willing to receive them, to bind them out or apprentice them, or to give them in adoption to foster parents. When children are committed to the board of children's guardians, their parents, if able to do so, may be required to contribute toward their support by means of payments made weekly, monthly or at other intervals. Children received from the reform schools may be placed at work or placed out, and may be returned to the reform schools, if it is thought that the interests of the community or the welfare of the child requires such action. The board of children's guardians also has charge of the care and maintenance of feeble-minded children.⁵

There are industrial home schools for the training of both white and colored children. The industrial home school for colored children was opened in 1907, and is under the direct control of the board of charities. The industrial home school for white children is under the general supervision of the board of

⁴ 34 Statutes at Large, 73. See the discussion of the juvenile court, page 127, and the discussion of the reform schools, page 159.

⁵ 23 Statutes at Large, 302; 27 *ibid.*, 268, 552; 31 *ibid.*, 843, 1095.

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charities, but is managed by a board of trustees composed of nine members who are appointed by the Commissioners of the District of Columbia. The members of this board are appointed for three years and one-third of them retire annually. The appointment of all employees of the school must be approved by the Commissioners, and the board manages the school under regulations which are also subject to the Commissioners' approval.*

Reformatories and Correctional Institutions.—The workhouse of the District of Columbia is operated as a branch of the Washington Asylum, and receives offenders sentenced to confinement for not more than six months, except in the case of men convicted of not supporting their families, who may be sent to the workhouse for a term not exceeding one year. Most of those confined in the workhouse are persons who have received short sentences in the police court. Having its inmates only for a short time the workhouse has little opportunity to do work of a reformatory character, and confinement in it is rather for punishment than for reformation. In fact for a number of years the jail and workhouse have been so overcrowded that it has been difficult to find accommodations for all prisoners. It has not been possible to keep all of the inmates of the workhouse at work, and prisoners in the jail have remained idle. In neither place has it been possible to undertake work of a reformatory character. Congress in 1908 authorized the appointment of three commissioners to investigate the conditions of the jail and workhouse and to make such recommendations as they might think proper regarding the penal and reformatory institutions of the District of Columbia. These commissioners made a report in which they recommended, among other things: (1) That the present jail hereafter be used simply as a house of

* 29 Statutes at Large, 410.

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detention for the confinement of persons accused of crime, but whose cases had not finally been disposed of by the courts. (2) That the present workhouse be abandoned and that two new institutions be established, one a reformatory for those who have not become habitual criminals; and the other a workhouse for the confinement of offenders whose crimes are not of a magnitude sufficient to demand a sentence to a penitentiary, and yet who are not proper subjects for the reformatory treatment. It was recommended that these new institutions be located upon large tracts of land, so that their inmates might be to a large extent employed in farming or in other outdoor work. (3) The development of a system of parole and probation for adult prisoners, similar to that already established for juvenile offenders. This plan involves the appointment of probation officers to control prisoners released under suspended sentences or before they have served their full terms of imprisonment, and the creation of a parole board to pass upon the application of prisoners desiring to be released on parole. According to the proposed plans general control over the reformatory and correctional institutions of the District should be vested in a new officer to be known as a "commissioner of correction," this officer, together with two other persons to constitute a "board of management and parole." Congress adopted the recommendations of these commissioners in so far as they relate to the establishment of a workhouse and a reformatory. The District appropriation act of March 3, 1909, provides for the purchase of land and for the appointment of a commission of three persons to prepare plans for the construction of the new institutions.

There is a reform school for boys which is now known as the National Training School for Boys. This school is managed by a board of seven trustees, appointed by the President of the United States upon the recommendation of the Attorney-General, each for a term of three years, but in such a manner that

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the terms of not more than three of them expire in the same year. These trustees serve without compensation. One of the Commissioners of the District of Columbia, selected by the board of Commissioners, is ex-officio a member of this board of trustees; and there are also two consulting trustees, one a senator of the United States appointed by the presiding officer of the Senate for a term of four years, and one a member of the House of Representatives appointed by the speaker of that body for a term of two years. The board of trustees appoints all the officers of the reform school, subject to the approval of the Attorney-General, and one or more of the trustees are required to visit the school at least once every two weeks. The institution is required to be examined by at least three of the trustees as often as once in every three months. This school is directly under the control of the Attorney-General, and to it are committed children from all parts of the United States who have been convicted of violations of federal laws. The management of the school is in no way under the District government; but the majority of its inmates are from the District of Columbia, and are cared for under a contract made by the board of charities with the authorities of the school. In the performance of its contract for the care of children sent to it by the District of Columbia, the reform school is subject to the supervision of the board of charities.

When any boy under seventeen years of age is convicted in the juvenile court of a crime or misdemeanor, the judge may commit him to the reform school until he attains the age of twenty-one years, unless he is sooner discharged or paroled by the court. The juvenile court may also commit to the reform school (1) any boy under seventeen years of age liable to punishment under existing law, (2) any boy under seventeen who is charged with a crime or misdemeanor which would, upon conviction, be punished by imprisonment in jail or prison, provided his parent or

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guardian consents to the commitment, (3) any boy under seventeen who is destitute of a suitable home or of adequate means of obtaining an honest living, or who is in danger of being brought up or is being brought up to lead an idle or vicious life, (4) any incorrigible boy under seventeen years of age leading a vagrant life, or resorting to immoral places or practices, or who refuses to work or to attend school. Children committed to the National Training School for Boys may be released on parole by the board of trustees of that school, a boy so released being bound to observe conditions imposed by the trustees. However, the approval of the Attorney-General of the United States must be obtained when the boy to be paroled was not committed to the school by one of the courts of the District of Columbia.'

The reform school for girls is managed by a board of nine trustees, appointed by the President of the United States upon the recommendation of the Attorney-General; the members of this board serve for three years and one-third of them retire annually. The trustees have the same powers with reference to this school as are possessed by those of the reform school for boys; but they are more directly under the control of the government of the District of Columbia, for the appointment of all officers of the school is subject to the approval of the Commissioners. Girls are committed to this school in the same manner that boys are committed to the reform school for boys.¹ The inmates of the reform school for girls are derived entirely from the District of Columbia, all of the expenses of the school are borne from appropriations for the District of Columbia, and the school is under closer administrative supervision of the board of charities than is the reform school for boys. However,

¹D. C. Compiled Statutes, 504-506; 31 Statutes at Large, 266. For an interesting account of the work of the reform school see the Sunday Star of May 17, 1908. Act of February 26, 1909.

²D. C. Compiled Statutes, 509-510. 31 Statutes at Large, 809.

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both institutions are to a large extent independent of the local government, and both make their official report to the Attorney-General of the United States.

Miscellaneous Institutions.—A home for the aged and infirm (a more euphonious name than almshouse) is maintained for the care of poor people who are unable to support themselves. The District of Columbia has no separate insane asylum and its insane are cared for in the Government Hospital for the Insane, under contract with the United States government. The temporary relief of homeless persons is provided by means of a municipal lodging house and by several other institutions of a similar character.

Outdoor Relief.—The only outdoor relief dispensed by the governmental authorities of the District of Columbia is the service of the physicians to the poor and the furnishing of the necessary medicines and supplies for the treatment of the poor when they are ill. The relief of poor people in their own homes is thus left almost entirely to private charitable agencies.

For the conduct of the outdoor relief of the poor the most important agency is the Associated Charities. This is a private organization supported entirely by voluntary contributions. Its aims are to bring about co-operation among the various charitable agencies of the District of Columbia, to obtain proper aid for those in actual need, to investigate each case carefully and to expose imposture and fraud, and by friendly visiting and counsel to aid the poor in helping themselves. The Associated Charities is a bureau of general information regarding the poor of the District and its records form a directory of those who have at any time applied for charitable aid. It has an organized system for the investigation of particular cases and when it finds that help is needed it brings the case to the attention of the society, institution, or body which has the power and the funds to give the needed help.

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All persons who contribute during the year the sum of five dollars or more to its funds and all friendly visitors who are members of its division conferences are voting members of the Associated Charities; and all persons contributing an annual sum of one dollar or more are associate members without the privilege of voting. A president, six vice-presidents, a secretary, and a treasurer are annually elected. The management of the organization is vested in a board of managers composed of the Commissioners of the District of Columbia, the major and superintendent of police, the health officer, and of fifteen elected members. The elected members of this board serve for three years and one-third of them retire annually. Officers of the society, chairmen of the division conferences, and resident clergymen are honorary members of the board of managers, and may participate in its proceedings but have no vote.

The executive head of the Associated Charities is a general secretary. The territory covered by the organization is, for purposes of convenience, parceled out into eight divisions, each of which is in charge of a paid agent; and over these division agents there is a general agent. In each of the divisions there is held a weekly conference of those interested in charitable work, for the discussion of problems which may arise in connection with the activities of the society. By means of general committees on the prevention of consumption,^{*} on the improvement of housing conditions, and on summer outings for children, the Associated Charities performs special work of a valuable character, which is partly charitable but which also extends into the wider field of general social welfare.

The agents of the Associated Charities investigate the cases in which help is needed. The Associated Charities as such does not

*This committee was in 1908 transformed into an independent Association for the Prevention of Tuberculosis.

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give the needed help, and practically all contributions to it are used for the payment of its administrative expenses. However, the agents of the Associated Charities are also agents of the Citizens' Relief Association, which has no separate offices or agents. The Citizens' Relief Association is the principal organization for the furnishing of material relief to the poor in their homes, and such relief is furnished by the agents of the Associated Charities after they have found by careful investigation that actual need exists. The Citizens' Relief Association is an unofficial organization composed of thirty members who are appointed by the Commissioners of the District of Columbia. This association receives private contributions for charitable aid to the poor and superintends the disbursement of such funds through the officers and agents of the Associated Charities.

CHAPTER X.

PUBLIC HEALTH.

Many of the activities of every large city bear a close relation to the preservation of public health. Among these may be mentioned the supplying of pure water, the proper disposal of sewage and garbage, the supervision of building and plumbing, the maintenance of parks, play grounds and baths. These subjects are, however, more appropriately treated in other parts of this work, and we shall here confine our discussion rather strictly to those matters which are either directly under the control of the health department of the District of Columbia or which relate primarily to the public health.

From 1871 to 1878 the sanitary administration of the District of Columbia was under the control of a board of health, composed of five persons who were appointed by the President of the United States by and with the advice and consent of the Senate. This board had extensive powers to declare what were nuisances and to provide for their removal; and to make regulations to prevent domestic animals running at large, to prevent the sale of unwholesome food, and for the prevention and removal of contagious and infectious diseases. The board of health also kept a record of births, and had control over the drainage and sewerage of private property.¹

Health Department and Health Regulations.—By the act of

¹ 16 Statutes at Large, 424; Laws of the District of Columbia, August 18, 1871; August 21, 1871; June 19, 1872.

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June 11, 1878, which established a permanent form of government for the District of Columbia, the board of health was abolished and the Commissioners were authorized to appoint a physician as health officer, whose duty it should be under the direction of the Commissioners to enforce all laws and regulations relating to the public health, and to perform all such duties as should be assigned to him by the Commissioners. Sanitary inspectors, clerks, and other employees of the health department are appointed by the Commissioners upon the recommendation of the health officer, and may be removed by the Commissioners.³ With respect to medical inspectors of the public schools it is provided by law that appointments shall be made after competitive examination;⁴ in no other cases are examinations required by law for appointment to positions in the health department, but by virtue of arrangements made with the Civil Service Commission from time to time examinations are sometimes held for appointment to other positions.

In 1880 a joint resolution was passed by Congress legalizing and continuing in force the health ordinances and regulations adopted by the board of health before its abolition in 1878;⁵ in 1899 authority was given to the Commissioners to alter, amend or repeal any of these ordinances.⁶ Extensive power to make health regulations is vested in the Commissioners under a joint resolution of 1892 which gives them authority to make such police regulations "as they may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons, and the protection of all property within the District of Columbia."⁷ Authority is also conferred upon the Commissioners to make reg-

³ 20 Statutes at Large, 107.

⁴ 32 Statutes at Large, 969.

⁵ 21 Statutes at Large, 304.

⁶ 30 Statutes at Large, 1390.

⁷ 27 Statutes at Large, 394; 24 ibid., 368.

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ulations governing the establishment and maintenance of private hospitals, for the prevention of contagious diseases among animals, for the prevention of scarlet fever and certain other contagious diseases, and to prevent the spread of tuberculosis.¹ The power to make health regulations thus rests almost entirely with the Commissioners, but the health officer under the direction of the Commissioners makes regulations regarding the conduct of dairies and dairy farms; and the medical inspectors of schools perform their duties in accordance with rules formulated by the health officer but subject to the approval of the Commissioners and of the board of education.²

Vital Statistics.—One of the most important duties of the health officer is that which relates to the collection of vital statistics. “Vital statistics are the life-records of a community—the records of birth, marriage, disease, and death; they are valuable as an index of the prevalence of certain diseases, as an indicator of the general health, and as a criterion of the sanitary progress that is being made from time to time.”³ From the standpoint of public health the statistics of death are of the greatest importance. A comparison of the general death rate of one community with the general death rates of other communities affords a general means for determining whether the sanitary condition of the one compares favorably with the sanitary condition of the others. For statistics of death to be of service to a health officer they must indicate the nature of the diseases which contribute unduly to the death rate, the particular class or classes of the population among which disease is unduly prevalent, and the extent to which disease and death prevail in different parts of the same community. With this information the

¹ 23 Statutes at Large, 33; 34 *ibid.*, 890; U. S. Statutes, 1907-08, Part I, pp. 64, 126.

² 28 Statutes at Large, 711; 32 *ibid.*, 969.

³ Bashore, Practical Sanitation, 140.

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sanitary officer may discover the cause of disease and apply remedies to prevent it."¹⁰ So in the District of Columbia the death rate among colored people is much greater than that among white people, and this fact points to the need of greater sanitary precaution among the people of the colored race. In 1906 there were in the District of Columbia 6,316 deaths out of a population of 326,435, making a death rate of about 19.35 per thousand. The death rate for the colored population was 28.82, and that for the white population, 15.46.

The records of births, deaths, and marriages are kept by a registrar of vital statistics. Whenever a person dies in the District of Columbia it is "the duty of the physician attending such person during his or her last sickness, or of the coroner of the District when the case comes under his official notice, to furnish and deliver to the undertaker, or other person superintending the burial of said deceased person, a certificate, duly signed, setting forth, as far as the same may be ascertained, the name, age, color, sex, nativity (giving state or country), occupation, whether married or single, duration of residence in the District of Columbia, cause, date, and place of death (giving street and number), and duration of last sickness of such deceased person. And it shall be the duty of the undertaker, or other person in charge of the burial of such deceased person, to state in said certificate the date and place of burial, and having signed the same, to forward it to the registrar aforesaid within twenty-four hours after such death: provided, that in case of death from any infectious or contagious disease said certificate shall be made and forwarded within eight hours thereafter."¹¹ Births are required to be reported to the health officer within a period of from four to ten days after they have taken place."¹²

¹⁰ Report of the Health Officer for 1906, pp. 7, 8.

¹¹ Report of the Health Officer for 1906, p. 98.

¹² 34 Statutes at Large, 1010.

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Abatement of Nuisances.—The health officer also has control over the matter of the abatement of nuisances. Rendering establishments, establishments for making glue, tar, turpentine, and for tanning or dressing hides, and other businesses of a similar character, when conducted in thickly settled portions of the District, are some of the nuisances enumerated in the health regulations, as are also the allowing of any plant or animal refuse to accumulate in streets, alleys or open lots, improper drainage or sewerage, and various other actions which are injurious to the public health.¹³ When a nuisance is found the owner of the property is notified, and if he fails to correct the condition which gives rise to a nuisance and fails also to show sufficient reason why he should not be required to correct the abuse, the Commissioners have authority to cause the condition to be corrected and to assess the cost as a tax against the property.¹⁴

These are certain useful businesses or trades which cannot be altogether forbidden, but which are subject to special regulations. So no person is permitted to maintain a cow yard in the more densely populated parts of the District of Columbia within two hundred feet of any dwelling house, without the written consent of the owner of such house; and stables are subject to numerous regulations in the interest of public health.¹⁵ Hospitals for contagious diseases may not be erected within three hundred feet of any building owned by a private individual.¹⁶ No new cemeteries are permitted to be located in the city of Washington or within one mile and a half from its boundaries.¹⁷

The emission of smoke from any smoke-stack or chimney of buildings not used exclusively as private residences is by law

¹³ Report of the Health Officer for 1906, p. 84.

¹⁴ 34 Statutes at Large, 114.

¹⁵ Report of the Health Officer for 1906, pp. 87, 197.

¹⁶ 28 Statutes at Large, 758.

¹⁷ D. C. Code, sec. 670.

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declared a public nuisance, and is subject to a fine of from ten to one hundred dollars for each day's offense. For the enforcement of this law the Commissioners detail an inspector of the health department who, under the supervision of the health officer, causes the prosecution of persons guilty of violating its provisions.¹¹ There is also a law requiring the removal of weeds which have grown to more than four inches in height within the city of Washington or in the more densely populated suburbs of the city, but no inspector is provided for the enforcement of this act, and little attempt is made to enforce it.¹²

The control of domestic animals is a matter which does not relate very closely to the public health, and many of the regulations regarding the keeping of fowls and with reference to annoyance caused by barking dogs and other noisy animals are enforced by the police authorities.¹³ Domestic animals are forbidden to run at large within the District of Columbia; animals found running at large are impounded and if not claimed within forty-eight hours are sold at public auction. A pound master, appointed by the commissioners, is under the direct supervision of the health officer.¹⁴ The Commissioners have authority to prescribe rules for the taking up and impounding of animals.¹⁵ With reference to dogs there are special provisions; every dog is subject to a tax and dogs wearing tags indicating the payment of the tax are usually allowed to run at large. All dogs running at large without tags are impounded and either sold or destroyed.¹⁶

¹¹ 30 Statutes at Large, 812.

¹² 30 Statutes at Large, 959. Report of the Health Officer for 1906, p. 40.

¹³ Report of the Health Officer for 1906, pp. 190-191. Report of the Commissioners for 1907, p. 82.

¹⁴ Report of the Health Officer for 1906, pp. 91, 180.

¹⁵ 21 Statutes at Large, 35.

¹⁶ Report of the Health Officer for 1906, pp. 82, 83, 90.

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The health department, through its inspectors, sees that all dwellings, outhouses, and yards are kept in a clean and wholesome condition. In the exercise of their duties health inspectors have authority to enter houses or other places, and anyone interfering with them in the performance of their duties is guilty of a punishable offense. Any person falsely representing himself to be a health inspector may be punished by fine or imprisonment.*

Food Inspection.—Many diseases are introduced by means of deleterious, unwholesome, or impure foods. On this account one of the most important duties of a health department is that which relates to the inspection of food. The control of food products is especially necessary in the case of milk, which forms a large part of the food of young children and the impurity of which is often responsible for a high rate of infant mortality. Cows are especially subject to tuberculosis, which, according to the prevailing medical opinion, may be transmitted to human beings through their milk; and milk is also often responsible for the dissemination of such diseases as typhoid fever.

No person is allowed to keep a dairy or dairy farm within the District of Columbia without a permit from the health officer, for which an application must be made in writing. Upon the receipt of an application the health officer is required to have an examination made of the premises which are intended for use as a dairy or dairy farm. If the examination shows that the premises conform to the regulations governing dairies and dairy farms within the District of Columbia, a permit is issued without charge; but such permit may be suspended or revoked without notice whenever the milk supply of a dairy or dairy farm is exposed to infection by contagious diseases which render its distribution dangerous to the public health.

* 29 Statutes at Large, 619.

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These provisions apply to dairies and dairy farms within the District of Columbia, but a large part of the milk supply comes from adjoining states. In order to maintain the proper safeguards with reference to such milk it is provided by law that no one shall bring or send milk into the District of Columbia without a permit from the health officer. The application for such a permit must contain a detailed description of the dairy and a sworn statement as to the physical condition of the cattle supplying the milk. The health officer issues the permit if satisfied that the milk will not endanger the public health. Such a permit is granted upon the conditions that only pure and unadulterated milk be brought into the District of Columbia, that the management of the dairy be governed by the regulations of the health department of the District of Columbia, and that the dairy may at any time be inspected by the health officer or his representative. Such a permit may be suspended or revoked without notice when a dairy is exposed to infection by a contagious disease. No person suffering from a contagious disease is permitted to work on a dairy farm.

Milk wagons are required to bear the name of the owner, the number of the permit, and the location of the dairy from which the milk is obtained. Grocers, bakers, and others offering milk for sale are required to keep posted in a conspicuous place the names of dairymen from whom they obtain milk. No person is permitted to offer for sale any unwholesome, watered, or adulterated milk, or milk known as swill milk, or milk from cows that are fed on swill, garbage, or other like substances, or any butter or cheese made from such milk. No milk is permitted to be sold if it contains less than three and one-half per cent of fat, and less than nine per cent of solids not fat. Skimmed milk may not be sold without a notice of its character to the purchaser.*

* 28 Statutes at Large, 709; 30 ibid., 246.

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Under a general power given to the health officer, acting under the direction of the Commissioners of the District, "to make and enforce regulations to secure proper water supply, drainage, ventilation, air space, floor space, and cleaning of all dairies and dairy farms within said District, to secure the isolation of cattle suffering from any contagious diseases," and to carry into effect the provisions of the laws regulating the sale of milk, the health officer has drafted detailed regulations for the conduct of dairies in order to obtain cleanliness and proper sanitary methods.* These rules are also applicable to dairies from which milk is imported into the District of Columbia. The laws and regulations which relate to dairies and to the sale of milk are enforced by veterinary inspectors who visit the dairies, keep a close supervision over the manner in which they are kept, and inspect the cattle to see that they are in a healthful condition; by inspectors who examine the places where milk is sold, and who collect samples of such milk; and by a chemist, who analyses the samples to determine whether they are adulterated or unhealthful. Inspectors from the health department have the right at any time to inspect dairies or dairy farms without previous notice. No officer or employee of the health department is permitted to render any service for compensation to a person licensed to keep a dairy or dairy farm or to bring milk into the District or who has applied or is about to apply for such license; or to any manufacturer or dealer in foods, drugs, disinfectants, or similar materials.**

* Report of the Health Officer for 1906, pp. 186-188.

** 33 Statutes at Large, 383. For a full account of the control of the milk supply of the District of Columbia, see a paper by Dr. W. C. Woodward in a volume entitled *Milk and its Relation to the Public Health*, pp. 679-747. (60th Congress, 1st session, House document 702. Public Health and Marine-Hospital Service. Hygienic Laboratory Bulletin No. 41. Washington, 1908).

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No person is permitted to sell within the District of Columbia any impure, diseased, decayed, or unwholesome foods, or any drinks containing poisonous or deleterious ingredients. The exposure for sale of diseased or unwholesome meats, or of vegetables not fresh and fit for food, is forbidden, as is also the slaughter of animals in a diseased condition. Inspectors of food, acting under the direction of the health officer, each morning attend the markets, inspect all meats and vegetables offered for sale, and condemn and cause to be removed such as may be unfit for food. When the inspectors are uncertain as to whether an article is fit for food they may forbid the sale of such an article and submit the matter to the health officer for decision. Persons exposing food products for sale are required to keep them screened from flies and other insects, or to protect them by means of power-driven fans; and managers of stores, markets, lunch rooms, or other places where food is sold are required to provide water for the cleansing of, and to keep clean all utensils and materials used in connection with such foods. In order to facilitate the work of food inspection every manager of a store, market, or other place where food or drink is manufactured, prepared for sale, or offered for sale, is required to enter his full name, the location of his store, and the nature of his business in a register kept for that purpose by the health department.*

Under the federal meat inspection law of 1906 the United States government has supervision over the slaughtering of all animals where the meat is to be used as an article of interstate or foreign commerce. All meat brought into the District of Columbia from the states is subject to federal inspection under this law, and all slaughter houses in the District of Columbia which slaughter for interstate trade as well as for the local

* Report of the Health Officer for 1906, pp. 92-97; *ibid.*, for 1907, p. 111. Report of the Commissioners for 1907, I, 84. U. S. Statutes, 1907-08, Part I, p. 299.

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market are subject to federal supervision. The health department has control over slaughter houses within the District of Columbia which slaughter only for sale within the District. Inspectors of live stock inspect the cattle or other animals intended to be killed in these slaughter houses, and condemn such as they may find to be diseased or unfit for food; the slaughter houses are also inspected to see that they are kept in a cleanly and sanitary condition.

The laws forbidding the sale of adulterated or misbranded foods and drugs have two objects in view, (1) the protection of health, (2) the protection of the public against fraud by the substitution of cheap but harmless adulterants for more expensive articles. The law prohibiting the sale of oleomargarine as butter is purely for protection against fraud, for oleomargarine is pure and wholesome and is a perfectly legitimate food commodity so long as it is sold under its own name. A number of food products are considered as adulterated if they do not conform to certain standards fixed by law, but the adulterated articles may be sold if the purchaser is given notice of the adulteration at the time of the sale; this statement applies only to harmless adulterants, and when the adulterants are injurious it is customary to forbid the sale of the adulterated commodity. So no person is permitted to manufacture or sell candy adulterated with harmful substances or containing any ingredients deleterious to health.* The pure food and drugs act of June 30, 1906, is directed both against harmless adulterations for fraudulent purposes and against adulterations injurious to health. This law, which applies to the whole United States, supplements the other laws in force in the District of Columbia with reference to adulterations, and is enforced within the District by the Department of Agriculture, acting in co-operation with the

* 30 Statutes at Large, 246, 398.

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health department.* Under this law the analysis of articles to detect adulterants is made by the Bureau of Chemistry of the Department of Agriculture or under its supervision; under the other laws in force in the District of Columbia with regard to food adulteration, the analyses are made by the health department of the District. In order to facilitate the enforcement of the pure food laws the health officer and the chemist of the District of Columbia hold formal appointments from the Department of Agriculture, and thus may act as officers both of the District and of the federal government.

The inspection of flour is not under the control of the health department, and relates rather to the prevention of fraud by adulteration or underweight than to the protection of health. The Commissioners appoint two inspectors of flour for the District of Columbia, who hold office for two years unless sooner removed. It is the duty of these inspectors to examine all flour manufactured in or brought into the District of Columbia for sale, in order to determine its quality and that it is properly packed and is of full weight. Each barrel or sack of flour inspected must be marked to show that such inspection has been made, and must also bear an indication of the quality or fineness of the flour. For the purpose of fixing the standards of the several grades of flour the Commissioners of the District of Columbia appoint three persons as commissioners of flour inspection. When any person thinks himself aggrieved by the action of an inspector of flour he may, within six days, appeal to the commissioners of inspection, who are then required to re-examine the flour in question in order to determine whether the inspector has decided rightly with reference to it.^a

Contagious Diseases.—The abatement of nuisances and the in-

* 34 Statutes at Large, 768.

^a 30 Statutes at Large, 765; 31 *ibid.*, 218.

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spection of food relate to the maintenance of sanitary conditions and the prevention of disease. Of equal importance is the control of contagious diseases when once they have appeared. Special provision is made by law for the prevention and control of Asiatic cholera, yellow fever, typhus fever, small pox, leprosy, the plague, glanders, scarlet fever, diphteria, measles, whooping cough, chicken pox, epidemic cerebro-spinal meningitis, tuberculosis, and typhoid fever.* Every physician or other person in charge of a patient suffering from any one of these diseases is required to notify the health officer immediately upon becoming aware of the existence of the disease. Police officers are also required to report all cases coming within their knowledge of persons suffering from malignant, infectious, or epidemic diseases.* The Commissioners of the District of Columbia have authority to make regulations to prevent the spread of diphteria and a number of other contagious diseases; but detailed rules are provided by law for the control of cholera, yellow fever, small pox, and several other of the more malignant diseases.

When a person is found to be suffering with a contagious disease of the more dangerous type the health officer causes a placard to be affixed to the house as a warning against infection, and may, if the case is sufficiently serious, station a watchman or watchmen at the building in which the disease exists. For the more dangerous diseases complete isolation is required, and if the patient lives in a tenement house, apartment house, hotel, or boarding house where such complete isolation cannot be obtained, the health officer may cause him to be removed to a pub-

* 29 Statutes at Large, 635; 34 *ibid.*, 889. U. S. Statutes, 1907-08, Part I, p. 126. Much information regarding the causes of typhoid fever is contained in two reports on The origin and prevalence of typhoid fever in the District of Columbia, Washington, 1907-08. (Public Health and Marine-Hospital Service. Hygienic Laboratory Bulletins Nos. 35 and 44.)

* Police Manual, 31.

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lic hospital or to such other place as may be thought proper. Every physician or person in charge of a patient suffering from a contagious disease is required to report promptly the recovery or death of such patient. For cholera and other diseases of a similar character specific rules are provided by law for the disinfection of the premises and the burial of the dead. If any person in the District of Columbia is exposed to small pox he is required to be vaccinated. Whenever the Commissioners declare that general vaccination is necessary for the public health it is made the duty of every person in the District of Columbia to be vaccinated. When the District is threatened with a contagious disease the Commissioners may require a house-to-house inspection to be made in order to have all premises cleaned and disinfected. At any time during the day the health officer and his subordinates have the right to enter and inspect premises where contagious diseases are believed to exist.

Tuberculosis is one of the most fatal diseases, and medical science has now established the fact that it is communicable, but that its spread may be prevented if proper care be taken. In the District of Columbia every physician is required to report in writing to the health officer, within one week after he recognizes the disease, any case of pulmonary or other communicable form of tuberculosis which comes under his care. The health officer is required to make an investigation of each case so reported, and to keep in his office a register of cases of tuberculosis, such register to be open to inspection only by the health officer and the deputy health officer. Persons found to have tuberculosis are furnished with printed instructions as to methods of preventing the spread of the disease. In case of deaths from tuberculosis or of the removal of a person suffering from this disease the apartments or premises occupied by such person are required to be disinfected. The Commissioners have power to make and enforce regulations to prevent the spread of the dis-

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ease."²⁴ The Commissioners also enforce rules for the prevention of the spread of tuberculosis among the employees of the District of Columbia.²⁵ The practice of spitting upon the streets, in street cars, public buildings, and other public places is not only very offensive, but is also one of the surest means of spreading tuberculosis. This practice is forbidden in the District of Columbia.²⁶

Schools are the gathering-places for children from all parts of the community, and, unless great care is taken, are an effective agency for the spreading of contagious diseases. On this account it is provided by law and by the health regulations that no person residing in a dwelling house or apartment where there has been a patient suffering from one of the more dangerous contagious diseases shall be permitted to attend a public or private school or Sunday school without the written permission of the health officer, and the same rule applies to persons who have been exposed in any way to such diseases or who have been suffering from any contagious disease. No pupil is admitted to the public schools who has not been vaccinated.²⁷

Medical Inspection of Schools.—For the purpose of maintaining supervision over the health of pupils in the public schools, the Commissioners appoint twelve medical inspectors of schools, who perform their duties under the direction of and in conformity with regulations formulated by the health officer, such regulations being subject to the approval of the Commissioners and of the board of education.²⁸ All teachers forward each day to the principals of their buildings requests for the examination of such pupils under their care as may be thought to be in need of

²⁴ U. S. Statutes, 1907-08, Part I, p. 126.

²⁵ Report of the Health Officer for 1906, pp. 200-201.

²⁶ Report of the Commissioners for 1907, I, 84. Report of the Health Officer for 1906, p. 194.

²⁷ Rules and by-laws of the Board of Education, pp. 29, 60, 62.

²⁸ 32 Statutes at Large, 969.

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medical examination or attention. The principal of each school notifies the medical inspector when his services are needed, and the medical inspector is required to respond to this notice on the day of its receipt, and to examine pupils presented to him, in the presence of the principal or of a teacher. A child found to be suffering from disease may be excluded from school and required to conform to certain conditions before being readmitted. The medical inspector is required to make general inspections of each school under his care, as often as possible, irrespective of the special requests for his services in the examination of particular pupils. The medical inspector may, if he thinks it necessary, examine all the pupils in any class or classes. He may, at the request of a principal, and with the consent of the teacher or janitor affected, examine a principal, teacher, or janitor to determine whether it would be advisable for such person to continue his school duties. A medical inspector is not permitted to treat pupils, teachers, or janitors who have been excluded from school upon his recommendation, unless such persons were under his treatment before their exclusion. Medical inspectors superintend the disinfection of class rooms or school buildings and, when they think it necessary, recommend the closing of a school building or of a part of a school building. Recommendations for the closing of a school building are transmitted by the health officer to the superintendent of schools, who is responsible for further action in the matter.

Medical inspectors of schools also have duties in connection with school buildings. They are required to note such insanitary conditions in and about school buildings as may be called to their attention or as may come under their personal observation, and to report them to the health officer. The health officer is required to report such conditions to the board of education and to the engineer department. Upon visiting a school it is one of the duties of the medical inspector to confer with the

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principal and to advise him with reference to such matters of hygiene and sanitation as may be brought to the inspector's attention, to observe the condition of the rooms and of the building, and to call the attention of the principal and teachers to such conditions in the rooms or buildings as may require correction." The health officer exercises general control over the sanitary condition of school buildings and of all other buildings used by the government of the District of Columbia."⁶

Diseases of Animals.—The keeping, in the city of Washington or in any of the more densely populated sections of the District, of any animal suffering from glanders or other contagious disease is punishable as a nuisance. Dogs suffering from hydrophobia may be destroyed, and all dogs found unmuzzled when the Commissioners have ordered that they be muzzled, may be impounded and either sold at auction or destroyed.⁷ Through its inspection of dairies and dairy farms the health department exercises some control over animals suffering with tuberculosis and other diseases.

Whenever a contagious, infectious, or communicable disease affecting domestic animals is brought into or breaks out in the District of Columbia it is the duty of the Commissioners to take measures to suppress such disease. For this purpose they may order premises where the disease exists to be put in quarantine, may order animals coming into the District of Columbia to be detained for examination, may prescribe regulations for the destruction of animals affected with contagious diseases and for the disposition of their hides and carcasses; and may make rules for disinfection and such other regulations as they consider necessary to prevent the spread of the disease. They are required to report to the Secretary of Agriculture regarding their actions

⁶ Rules and by-laws of the Board of Education, pp. 49-59.

⁷ Report of the Health Officer for 1906, p. 201.

⁸ Report of the Health Officer for 1906, pp. 82, 89, 90.

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in this matter.* Under authority conferred by law the Commissioners have appointed the chief of the Bureau of Animal Industry of the Department of Agriculture to act as veterinarian for the District of Columbia, the chief of this bureau reporting to the Commissioners in all matters relating to his work in connection with the District. The veterinarian so designated is given full authority to inspect premises, establish quarantines, and to order the destruction of animals affected with contagious diseases. Veterinary surgeons in the District of Columbia, sanitary inspectors of the health department, and police officers are required to report promptly to the chief of the Bureau of Animal Industry any cases of contagious diseases among animals which may come to their knowledge.* In practice the control of diseases affecting domestic animals in the District of Columbia is left almost entirely to the health department; the chief of the Bureau of Animal Industry infrequently exercises the powers conferred upon him by the orders of the Commissioners, although recently he has been more active than heretofore.

Practice of Medicine.—A number of professions and businesses bear such a close relation to the preservation of the public health that it is found necessary to regulate their practice rather strictly. The principal professions of this character are the practice of medicine, pharmacy, dentistry, and veterinary surgery.

For the granting of licenses to practice medicine there is a board of medical supervisors, composed of the presidents of the three boards of medical examiners referred to below, and of two other persons, not physicians, one of whom must be a lawyer. The members of this board are appointed by the Commissioners of the District of Columbia, each for a term of three years, and no more than two members of the board may be adherents of any

* 23 Statutes at Large, 33.

* Report of the Health Officer for 1906, pp. 181, 182.

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one system of medical practice. The Commissioners may, after notice and hearing, remove any member of this board for neglect of duty or other just cause.

The board of medical supervisors has general control over the examination of candidates, and issues all licenses for the practice of medicine, surgery, or midwifery in the District of Columbia. All persons desiring to practice medicine or surgery in the District of Columbia must apply to this board and submit to an examination in the various branches of medical science. Each applicant is required to have attained the age of twenty-one years, to be of good moral character, and to have a diploma issued by a medical college authorized by law to confer the degree of doctor of medicine.

The Commissioners also appoint three boards of medical examiners: (1) The board of medical examiners of the District of Columbia, composed of five physicians in good standing who are adherents of the regular system of medical practice. (2) The board of homeopathic medical examiners, composed of five physicians who are adherents of the homeopathic system of medical practice. The members of this board are selected from a list of not less than ten names submitted by a majority vote at some regular meeting of the Washington Homeopathic Medical Society. (3) The board of eclectic medical examiners, composed of five physicians who are adherents of the eclectic system of medical practice. The members of this board are selected from a list of not less than ten names submitted by a majority vote at some regular meeting of the Eclectic Medical Society of the District of Columbia. Members of these boards may be removed for neglect of duty or other just cause.

Applications for license to practice medicine are made to the board of medical supervisors, and the several boards of medical examiners examine all applicants certified to them by the board of medical supervisors. For this purpose the boards of medi-

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cal examiners hold meetings quarterly and at such other times as the board of medical supervisors may direct. The boards of examiners prepare questions from which the questions for the medical examinations are selected by the medical supervisors, and grade the papers of applicants who may take such examinations. The medical supervisors, after considering the reports of the medical examiners, issue licenses to the applicants who successfully pass the medical examinations. The board of medical supervisors may, under certain conditions, license without examination applicants who have been engaged in the practice of medicine in a state or territory where the standards of the medical profession are similar to those of the District of Columbia.

The board of medical supervisors, subject to the approval of the Commissioners, makes such regulations as may be necessary to determine the qualifications of women desiring to practice midwifery, and issues licenses to such persons as are, upon examination, found competent. Examinations of applicants for licenses to practice midwifery are conducted by three physicians nominated for that purpose by the board of medical supervisors.

Persons receiving licenses to practice medicine, surgery, or midwifery are required to have such licenses recorded in the office of the clerk of the Supreme Court of the District of Columbia, and must also register with the health officer of the District. Any person practicing medicine, surgery, or midwifery without having obtained a license and without having complied with the laws and regulations controlling the practice of these professions is guilty of a misdemeanor and may be punished by fine or imprisonment.

The board of medical supervisors may, by a vote of four members, refuse to grant a license, and may revoke a license and cause the name of a person to be removed from the records of the Supreme Court of the District and from the register of the

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health department, for chronic inebriety, the practice of criminal abortion, conviction of crime involving moral turpitude, or for the employment of fraud or deception in passing the medical examination. In cases of complaints leading to proceedings for the revocation of licenses, the accused person must be furnished with a copy of the complaint, must be given a hearing before the board, and witnesses may be heard on behalf of the accused person and on behalf of the board. Appeals from the decision of the board may be taken to the Court of Appeals of the District of Columbia, and the decision of this court is final. Within two years after its action disbarring anyone from the practice of medicine, surgery, or midwifery, the board of medical supervisors may, by a vote of four members, issue a new license to the person so affected."

Pharmacy.—For the control of the practice of pharmacy there is a board of pharmacy composed of five licensed pharmacists who have been engaged in practice for the five years immediately preceding their appointment. The members of this board are appointed by the Commissioners in such a manner that the term of one member expires each year. They may be removed, after a full hearing, for neglect of duty or for other just cause.

Every person desiring a license as a pharmacist is required to file an application with the board of pharmacy, and to submit to an examination as to his qualifications. Licenses may, however, be issued without examination to pharmacists legally registered in some other jurisdiction where the requirements for practice are equal to those of the District of Columbia. A license once granted may be revoked if found to have been obtained by fraud, if the licensee is found to be of immoral character or is suffering from such physical or mental disease as to make the cancella-

"29 Statutes at Large, 198; 34 *ibid.*, 178, 1005. *Czarra v. Board of Medical Supervisors*, 25 App. D. C. 443.

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tion of the license seem expedient, or if the licensee should be convicted of any offense involving moral turpitude.

It is unlawful for any person not a licensed pharmacist to compound prescriptions, or to conduct a drug store, chemical store, or other place of business for the retailing, compounding, or dispensing of drugs, or for the compounding of physicians' prescriptions. This provision does not apply to wholesale dealers in drugs, to the sale of poisons for use in the arts or as insecticides, to the sale of chemicals used in cooking and for domestic purposes, to the sale of proprietary medicines unless they contain poisons, or to the compounding of prescriptions by an unlicensed person under the supervision of a licensed pharmacist. Dealers in poisons intended for use in the arts or as insecticides, are, however, required to obtain licenses from the board of pharmacy. Legally licensed practitioners of medicine, dentistry, or veterinary surgery may also compound their own prescriptions or supply their patients with medicine.

Special restrictions are placed around the sale of poisons. No person is permitted to sell cocaine, morphine, opium, or chloral hydrate except upon an original prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary surgery. No physician, dentist, or veterinarian is permitted to prescribe these drugs for persons known to be addicted to their use. The prescriptions upon which such drugs are sold must contain the date and the name of the person for whom ordered, and must be kept on file by the druggists. With reference to the sale of other poisons than those mentioned above, the druggist is required to keep a register on which is entered the name of the poison, the quantity delivered, the purpose for which it is to be used, the date of delivery, and the name and address of the person for whom it was purchased; these provisions do not apply to poisons dispensed on the prescription of a physician, dentist, or veterinarian. Every proprietor of a drug store is required to

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keep on file for at least three years the original or a copy of every prescription compounded in his place of business. Prescriptions for cocaine and for other drugs of a similar character, and the register of the sales of poisons are at all times open to inspection by duly authorized officers of the law.* The laws regarding the sale of drugs are to a large extent enforced by an officer especially detailed by the police department for this purpose.

No person is permitted to sell or dispose of, bring into or transport from, the District of Columbia any virus, serum, toxin, antitoxin, or other similar product for the prevention and cure of human diseases unless such article has been prepared by an establishment holding a license issued by the Secretary of the Treasury of the United States. Establishments in the District of Columbia for the preparation of viruses, serums, and toxins are at all reasonable times subject to inspection by officers of the Treasury Department. The Surgeon-general of the Army, the Surgeon-general of the Navy, and the Surgeon-general of the Public Health and Marine-Hospital Service constitute a board for the preparation of rules governing the issuance, suspension, and revocation of licenses for the manufacture of viruses, serums, toxins, and antitoxins.**

Dentistry.—For the regulation of the practice of dentistry there is a board of dental examiners, composed of five dentists appointed by the Commissioners of the District of Columbia for terms of five years; one member of the board retires each year. Every person desiring to practice dentistry must apply to this board and pass an examination given by it. A person who has practiced for five years in any state or territory may, however, upon the certificate of the board of dental examiners of such state or territory, be admitted to practice without examination.

* 34 Statutes at Large, 175, 1005.

** 32 Statutes at Large, 728.

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All licensed dentists are required to be registered with the health officer.[“]

Medical and Dental Colleges.—Medical and dental colleges not incorporated by special act of Congress and conferring the degrees of doctor of medicine or doctor of dental surgery are not permitted to conduct business in the District of Columbia until after they have been registered by the Commissioners and have obtained a permit to do business. The Commissioners have power to make regulations regarding the form in which applications should be made for such permits, and are required to give public notice of all hearings upon such applications. No permit may be issued until after the Commissioners have satisfied themselves that the medical and dental colleges applying therefor are fully equipped, both by the character and fitness of their faculties and by the sufficiency of their appliances, to give suitable and sufficient instruction in the theory and practice of medicine or of dental surgery.[“]

Nursing.—Any person desiring to call herself a registered nurse must first be registered by the nurses' examining board. This board is composed of five members, each appointed for a term of five years, and one member of the board retires each year. The first appointments to this board were made by the Commissioners from a list of ten members nominated by the Graduate Nurses' Association of the District of Columbia; and each annual appointment is made from a list of three nominees submitted by the same body. Nurses desiring to be registered must apply to this board and pass the examination given by it. Professional nurses registered in a state or territory which maintains a standard equivalent to that of the District of Columbia

[“] 27 Statutes at Large, 42; 33 *ibid.*, 10.

[“] 29 Statutes at Large, 112. Report of the Health Officer for 1906, pp. 182-184.

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may be registered without examination. The registration of a nurse may be revoked and her certificate canceled if the registration were obtained by fraud or if she is found guilty by the nurses' examining board of any act derogatory to the standing and morals of the profession of nursing. Before such registration can be revoked the accused nurse must be given thirty days' notice of the charges against her and must be allowed a hearing before the nurses' examining board. These regulations apply only to persons desiring to call themselves "registered nurses." Anyone may engage in the business of nursing in the District of Columbia without being registered, but it is a punishable offense for an unregistered nurse to represent herself as being a registered nurse.*

Veterinary Medicine.—The control of the practice of veterinary medicine is vested in a board of examiners in veterinary medicine, composed of five veterinarians who have actively engaged in the practice of their profession within the District of Columbia during the three years immediately preceding their appointments. Appointments to this board are made by the Commissioners for a term of five years, and one member retires each year. Members of the board may, after due notice and hearing, be removed by the Commissioners for neglect of duty or for other sufficient cause.

Every person desiring to practice veterinary medicine in the District of Columbia must apply to this board and obtain a license before engaging in such practice. The board examines applicants and licenses those whom it finds properly qualified. Any person examined by the examiners in veterinary medicine and refused a license may appeal in writing to the Commissioners. In case of such appeals the Commissioners may, if they think proper, appoint a board of review of three veterinarians

* 34 Statutes at Large, 887.

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to review the examination or to re-examine the applicant. If the board of review finds in favor of the applicant he is granted a license. The board of examiners in veterinary medicine may by a vote of four members, after notice and hearing, revoke or suspend the license of any person upon his conviction of a crime involving moral turpitude, for the employment of fraud or deception in passing the examination or in obtaining a license, or for chronic inebriety. The procedure to be observed in the revocation or suspension of licenses is regulated by rules made by the board but subject to the approval of the Commissioners. An appeal from the action of the board may be taken to the Court of Appeals of the District of Columbia.*

Private Hospitals.—No person is permitted to establish or maintain in the District of Columbia a private hospital or asylum without a license from the Commissioners. The Commissioners have authority to make such regulations as they may think proper governing the establishment and maintenance of private hospitals and asylums, and to regulate the issue, suspension, and revocation of licenses to such institutions. It is the duty of the health officer to enforce all laws and regulations relating to private hospitals, and in the performance of this duty he and his agents have authority at all reasonable hours to enter and inspect private hospitals and asylums.**

Disposal of dead bodies.—There are several reasons why the disposal of bodies of the dead should be subject to supervision: (1) It is necessary that the health officer should have a record of all deaths in order to make the vital records of the District of Columbia of any service. (2) The burial of those who may have died of contagious diseases must be subject to regulation in order to prevent the spread of such diseases. (3) Cemeteries are es-

* 34 Statutes at Large, 870.

** U. S. Statutes, 1907-08, Part I, p. 64.

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tablishments which are offensive when located in densely populated districts. (4) The disposal of dead bodies may often serve as a means of concealing crime. Every undertaker and every person in charge of a cemetery is required to register at the health department. No body may be buried, removed, or disposed of in any way without a permit from the health officer. Cemeteries are subject to regulations with reference to their location, and a register must be kept of each cemetery, showing the name, age, cause of death, and date of burial of each person buried in any lot or grave space.["] A public crematorium is provided for the cremation of bodies of persons who die of contagious diseases, when such bodies come into the custody of the District of Columbia to be disposed of at the public expense. Bodies not to be disposed of at the public expense may be cremated at the public crematorium upon the payment of a fee covering the cost of such service.["] An anatomical board, composed of the health officer and of two representatives from each school in the District of Columbia giving instruction in medicine or in dental surgery, determines upon the distribution of unclaimed dead bodies among the several medical and dental schools for purposes of dissection in connection with the instruction in such schools.["]

Barber Shops and Laundries.—Every manager of a barber shop is required to register his full name and the location of his shop at the health department. Barbers are required to equip their shops with running hot and cold water, and to conform to rules made for the purpose of preventing the spread of disease.["] The laundering of clothes is also a business which bears a close relation to public health, and which is especially liable to spread

["] Report of the Health Officer for 1906, pp. 98, 145-149.

["] 34 Statutes at Large, 123.

["] 32 Statutes at Large, 173.

["] Report of the Health Officer for 1906, pp. 188-189.

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disease when carried on in the living apartments of those who do the washing. On July 22, 1908, the Commissioners issued an order requiring persons who launder for pay in their homes to register with the health officer of the District of Columbia. This registration is required in order that the health department may inspect premises where laundering is done on a small scale, may exercise supervision over the sanitary condition of such premises, and may entirely forbid laundering on premises where communicable diseases exist.

CHAPTER XI.

CONTROL OF BUILDING OPERATIONS AND PREVENTION OF FIRE.

Building Regulations.—The control of building operations within the District of Columbia is exercised for several purposes: (1) To make sure that buildings are constructed in such a substantial manner as to be safe. (2) To obtain proper sanitary conditions. (3) To avoid fires, in as far as this is possible, and to provide means of escape for those who may be in buildings which take fire. We shall discuss briefly the measures taken for the control of buildings with reference to these three objects.

In order to insure safety of construction detailed regulations are provided with reference to the laying of foundations for buildings, the thickness of walls, and the quality and strength of building materials. Special restrictions are placed around the construction and use of elevators; elevator operators are required to be licensed by the inspector of buildings, and in order to obtain licenses they must pass an examination given under rules prescribed by the Commissioners. Whenever any building is reported to be dangerous or unsafe the inspector of buildings may, if the public safety requires immediate action, enter the premises and have the structure repaired or torn down. If immediate action is not necessary a careful survey of the property is required to be made by three disinterested persons; if these persons decide that the building is unsafe, and the owner refuses to take any action, the inspector of buildings may have the build-

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ing made safe or removed, and the cost of such work will be assessed against the property and collected in the same manner as taxes are collected.¹

The regulation of the sanitary condition of buildings has reference especially to light and ventilation, plumbing, drainage and sewerage, the overcrowding of dwellings, and the repair or destruction of insanitary buildings. In order that proper light and ventilation may be obtained the building regulations provide that dwelling houses constructed on corners shall not occupy more than ninety per cent of the lots upon which they are built and that such houses when constructed on interior lots shall not occupy more than seventy-five per cent of the lots upon which they are built; there are also regulations with reference to the size of rear yards to dwelling houses, which reduce still further the proportion of lots permitted to be occupied for building purposes. Specific provisions are also made regarding the construction of open and closed courts. It is unlawful to erect a dwelling house on any alley in the District of Columbia which is less than thirty feet in width and is not supplied with sewerage, water mains, and light. No dwelling house may be erected on any alley which does not run straight to and open at right angles upon a public street, with an exit at least fifteen feet in width.² No dwelling house less than fourteen feet in width may be erected until after the plans have been approved by the health officer of the District.

Defective plumbing is one of the most frequent causes of disease. On this account plumbing and gas fitting are subject to regulations of a very detailed character. The plumbing and drainage of all houses under construction are subject to careful inspection, and occupied houses may be inspected upon the com-

¹ 30 Statutes at Large, 923.

² 27 Statutes at Large, 254.

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plaint of any citizen. In such cases if the inspector finds that the plumbing is defective, and the owner, agent, or tenant objects to making the changes required, the Engineer Commissioner may order a re-examination of the plumbing by three inspectors, and if the plumbing is still found defective it will be required to be repaired or replaced.

Owners of houses are required to furnish them with facilities for keeping them properly heated, ventilated, and lighted. Occupants must keep their premises in a clean and wholesome condition, all premises being subject to inspection by the health officer or his subordinates for the purpose of enforcing this requirement. Buildings in which laborers are employed for wages must not be overcrowded, and are required to be properly lighted, heated, and ventilated. Tenements and lodging houses are also subject to special regulations, the most important provision with reference to them being that no room shall be occupied as a sleeping room unless there are at least four hundred cubic feet of contents for each person over ten years of age who occupies it.*

The assistant to the Engineer Commissioner who is in charge of buildings, the health officer, and the inspector of buildings form a board for the condemnation of insanitary buildings. They have authority to examine buildings, and to condemn buildings which are found to be in such an insanitary condition as to endanger the health or lives of their occupants or of persons living in their vicinity. They have power to cause all buildings to be put in a sanitary condition, or to be vacated, demolished, and removed. When a building is found to be in an unsatisfactory condition notice is served on its owners requiring them to show cause why the building should not be condemned. A condemned building must be vacated within thirty days after a notice of

* Report of the Health Officer for 1906, pp. 184-185.

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condemnation has been affixed to it. If a condemned building can be put in proper condition by repairs such repairs will be allowed, but if it cannot be satisfactorily repaired it must be demolished. An owner of a condemned building may institute proceedings in the Supreme Court of the District of Columbia for the modification or vacation of a condemnation order. If the court upholds the condemnation order it appoints a committee of three persons to assess the amount due the owner because of the destruction of his property which has been condemned.*

Improvement of Housing Conditions.—The building inspector and the inspector of plumbing exercise supervision over the sanitary condition of houses that are being constructed, and the board for the condemnation of insanitary buildings may order the removal or repair of buildings found to be in a defective condition. But the movement for the removal of insanitary buildings must necessarily be a slow one unless the people realize the importance of the matter and know that a large number of the inhabitants of the District of Columbia live in houses not really fit for human habitation. It is necessary also that new and more sanitary dwelling houses be provided for those who are dispossessed from houses condemned as insanitary. Two private companies, one organized in 1897 and the other in 1904, have constructed model dwelling houses, which have been rented at low rates and have proven profitable business investments. An investigation of housing conditions in the District of Columbia was made by the Civic Center in 1895 and 1896.* A committee on the improvement of housing conditions was organized in 1902 by the Associated Charities. In 1906 Mr. Charles F. Weller published the results of an investigation which he had made of

*34 Statutes at Large, 157.

*An account of this investigation appears in the Report of the Health Officer for 1899, pp. 107-121.

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the housing conditions of Washington City. In his annual message for 1904 President Roosevelt recommended to Congress the appointment of a special "Commission on Housing and Health Conditions in the National Capital," but Congress took no action with reference to this recommendation. At Mr. Roosevelt's request Mr. James B. Reynolds in 1907 undertook a special investigation of housing conditions in the District of Columbia. As a result of Mr. Reynolds' recommendations Mr. Roosevelt appointed fifteen persons to undertake a careful investigation of housing conditions in the District of Columbia. The members of the "President's Homes Commission" serve without compensation, and the expenses of their investigation are borne by voluntary contributions. This commission has made several important reports.

Prevention of Fire.—A large part of the regulations with reference to buildings relate to the prevention of fire or to precautions for the protection of life in case of fire. Fire limits are established within which no wooden buildings may be erected; the fire limits include all the more densely populated portions of Washington. The regulation of the height of buildings has the three-fold purpose of fire protection, the obtaining of better light and ventilation, and the control of buildings with reference to aesthetic standards. No building not of fireproof material, intended to be used as a residence, apartment house, hotel, hospital, or dormitory, may be erected to a height of more than five stories or sixty feet. No wooden or frame building intended for human habitation may exceed three stories or forty feet in height. Non-fireproof business buildings may not exceed seventy-five feet in height. Fireproof buildings may not be constructed to exceed eighty feet in height on residence streets, and one hundred and ten feet in height on business streets, except that a height of one hundred and thirty feet may be allowed on business streets one hundred and sixty feet wide. With a few

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slight exceptions no building may exceed in height the width of the street upon which it fronts.*

The owner of every building three or more stories in height, or more than thirty feet in height, constructed, used, or intended to be used as a tenement house, apartment house, flat, hotel, office building, school, sanitarium, place of amusement, or building in which ten or more people are employed above the second floor, is required to have affixed thereto a suitable number of fire escapes of such material and construction as the Commissioners may require. The owner of such a building may also be required to maintain guide signs, guide lights, exit lights, hall and stairway lights, fire hose, and fire extinguishers; but fireproof office buildings are not subject to the provisions with reference to fire escapes and other precautions against fire.* These requirements are enforced by the building inspector and by the chief engineer of the fire department, under rules formulated by the Commissioners.*

Theaters, churches, hotels, and other places of public assembly are particularly liable to fires which may occasion great loss of life, and on this account special precautions are taken with reference to them. Stairways and aisles must be kept open and doors are required to open outward. The heating and lighting of such places are under the close supervision of the public authorities. Theaters and other places of public amusement are required to be constructed of fire-resisting materials, and to contain facilities for the extinguishment of fires. Every stage must be provided with a fire-proof curtain; woodwork, draperies, and curtains are required to be saturated with fire-resisting materials. Under the direction of the chief engineer of the fire department

* 30 Statutes at Large, 922; 32 *ibid.*, 1022; 33 *ibid.*, 14.

* 34 Statutes at Large, 70, 1247.

* Report of the Commissioners for 1907, I, 82-84, 332. Report of the Engineer Department for 1907, p. 135.

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theaters are inspected twice each week to see whether they have complied with these regulations. Public halls and churches are inspected less frequently. The regulations with respect to theaters and other places of public amusement are enforced by the building inspector, the chief engineer of the fire department, and the electrical engineer of the District of Columbia. No hotels or places of public amusement are allowed to be opened or continued in operation without licenses, and if the regulations regarding their management are not complied with, such licenses may be withheld.¹⁹

Heating and lighting appliances if not kept in proper order are frequently the causes of fire. Gas pipes are subject to inspection by the inspector of plumbing. The inspector of buildings has supervision over all heating apparatus in buildings. The electrical engineer has control of electric wiring and lighting.²⁰

Factories, machine shops, other establishments of a similar character, and steam engines used for the running of machinery are not allowed within the fire limits without the consent of owners of two-thirds of the adjoining property. Gasoline or other engines may not be installed in buildings without the approval of the inspector of buildings. For the control of steam boilers used for the purpose of running machinery there is an inspector whose duty it is to inspect all steam boilers at least once in twelve months and to condemn such of them as he may deem unsafe. The boiler inspector and two practical engineers appointed by the Commissioners form a board of examiners for

¹⁹ 27 Statutes at Large, 394; 34 *ibid.*, 71. Building Regulations, 111-117; Police Regulations, 63-66; Report of the Commissioners for 1907, p. 339; Report of the Engineer Department for 1907, p. 136.

²⁰ 33 Statutes at Large, 306.

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the licensing of steam engineers; the examinations are conducted under rules and regulations made by the Commissioners."¹¹

Petroleum and other combustible substances of a similar character are not permitted to be kept in frame buildings, and must be stored in fireproof houses subject to the approval of the fire marshal. No person is permitted to store for use or to keep for sale more than five gallons of any highly inflammable oils or fluids without obtaining an annual license to do so. No license for this purpose is issued except upon application to the fire marshal and after the fire marshal and chief engineer of the fire department have approved the application. The tanks or receptacles for the storage of inflammable oils or fluids must be constructed in accordance with the requirements of the police regulations and subject to the approval of the fire marshal and the chief engineer of the fire department. Similar regulations are in force with reference to the storage of cotton, hay, jute, and other inflammable substances. The transportation, storage, sale, and use of high explosives are also subject to stringent police regulations, and the control of this matter also is to a large extent in the hands of the fire marshal."¹²

General powers for the prevention of fire are given to the members of the fire department. The chief engineer, the fire marshal and his deputies, and the batallion chief engineers are empowered to enter any buildings or premises for the purpose of examining stoves, pipes, ranges, furnaces, and heating apparatus of all kinds, and all other things which in their opinion may cause or promote fires, or be dangerous to the occupants or firemen in case of fire. The owner or occupant of any house may be required to alter or remove any appliances or to take such precautions as may be necessary to prevent or to lessen the

¹¹ D. C. Compiled Statutes, 511-513.

¹² Police Regulations, 12-19, 44-49.

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danger of fires. The work of preventing fires is much more important than that of extinguishing them and forms a large share of the activities of a fire department. A systematic inspection of buildings by the fire marshal, such as is undertaken in the District of Columbia, is the most effective means of preventing fires.¹²

Commissioners' Power to Make Regulations.—We have discussed briefly the regulations for the control of buildings and for the prevention of fire. We must now consider by whom these regulations are made and what is the administrative machinery for enforcing them. Many rules regarding the construction and control of buildings have been enacted by Congress, but the great body of the building regulations has been adopted by the Commissioners, in the exercise of powers conferred upon them by Congress. The Commissioners have power to make and enforce building regulations;¹³ to make, modify, and enforce regulations governing plumbing, gas fitting, house drainage, and the ventilation, preservation, and maintenance in good order of house sewers and public sewers, and regulations governing the examination, registration and licensing of plumbers, and the business of plumbing;¹⁴ to make and publish such orders as may be necessary to regulate the construction, repair, and operation of elevators;¹⁵ to regulate the storage of highly inflammable substances;¹⁶ to make rules and regulations regarding the examination of steam engineers and the inspection of steam boilers and engines;¹⁷ to make rules and regulations respecting the production, use, and control of electricity for light, heat, and power

¹² Report of the Commissioners for 1907, p. 339.

¹³ 20 Statutes at Large, 131.

¹⁴ 27 Statutes at Large, 21, 543.

¹⁵ 24 Statutes at Large, 580.

¹⁶ 24 Statutes at Large, 368; 34 *ibid.*, 809.

¹⁷ 24 Statutes at Large, 427.

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purposes;" to determine the number, material, type, and construction of fire escapes;" to make regulations for the safety of theaters and other places of amusement; and, in general, to make such reasonable and usual police regulations "as they may deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons, and the protection of all property within the District of Columbia."³³"³⁴

Control of Building and Plumbing.—The building laws and regulations are enforced by an inspector of buildings and an inspector of plumbing, by the electrical engineer of the District of Columbia, and by the officers of the fire department. With the exception of the business of plumbing and gas fitting, no control is exercised over the qualifications of those who engage in the building and allied trades. No person is permitted to engage in the business of a plumber unless he is a licensed plumber or an employee of a licensed plumber. For the examination of applicants for licenses as plumbers there is a plumbing board, composed of one master plumber, one journeyman plumber competent to be licensed as a master plumber, and one employee of the District of Columbia who possesses a knowledge of plumbing, gas fitting, and sanitary work.³⁵ Every licensed plumber is required to give bond to the amount of two thousand dollars to perform all work in accordance with the plumbing regulations of the District of Columbia.

The inspector of buildings is appointed by the Commissioners, and must be a person who has had at least ten years' experience as an architect, builder, or civil engineer. No building may be erected, altered, repaired, or removed without a permit from the inspector of buildings; permits are not required for interior re-

³³ 33 Statutes at Large, 306.

³⁴ 34 Statutes at Large, 70.

³⁵ 27 Statutes at Large, 394.

³⁵ 27 Statutes at Large, 21; 30 *ibid.*, 477; 34 *ibid.*, 483.

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pairs or minor alterations which in no way affect the construction of buildings, but such matters must also be submitted to the inspector of buildings for decision. Applications for building permits must be accompanied by drawings and specifications of the building proposed to be erected. The plans go first to the inspector of plumbing, and if he approves the plumbing plans, they then go to the inspector of buildings, who issues the permit if the plans conform in every respect to the building regulations of the District of Columbia. No permits are issued for the erection, enlargement, or remodeling of buildings until after the inspector of plumbing certifies that the plans for such work conform to the regulations regarding plumbing, drainage, and water supply. After a permit has been issued building inspectors and inspectors of plumbing examine the work of construction as frequently as possible to see that the plans are properly carried into execution. Small fees are now charged for building permits. However, the District appropriation act of March 3, 1909, empowers the Commissioners to prescribe a schedule of fees, the new fees to cover the cost of issuing the permit and also the expense of inspecting the work authorized by the permit. Under this arrangement the building inspector's office will become practically self-supporting. Besides inspecting buildings in course of construction, the building inspectors also examine houses reported or thought to be in a dangerous or defective condition; and the inspectors of plumbing, upon the complaint of owners, occupants, or others, investigate reported cases of defective plumbing.

In addition to his duties in connection with the control of private buildings, the inspector of buildings has until recently prepared or supervised the preparation of plans, and superintended the construction of school houses and of other buildings erected under the direction of the District of Columbia; and has had charge of the repairs of all such buildings. The District

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appropriation act of March 3, 1909, however, provides for the appointment of a municipal architect whose duty it will be to prepare or to supervise the preparation of plans, and to superintend the construction of all municipal buildings; and to have charge of the repair and improvement of all buildings belonging to the District of Columbia. Plans prepared by the municipal architect are subject to the approval of the Commissioners.* In addition to his duties with reference to the supervision of plumbing in private buildings, the inspector of plumbing has charge of the installation and repair of plumbing in school houses and in other public buildings belonging to the District of Columbia.

Fire Department.—The control of measures for the prevention and extinguishment of fires falls within the province of the fire department. At the head of the fire department is a chief engineer, under whom are a deputy chief engineer, battalion chief engineers, a fire marshal, deputy fire marshal, captains, lieutenants, engineers, drivers, two grades of privates, and other necessary employees, there being altogether four hundred and forty-eight members of the department. Each of the fire stations is in command of a captain. The fire marshal is directly in charge of the enforcement of the laws and regulations for the prevention of fire. A fire boat is provided for the extinguishment of fires along the water front. Volunteer fire organizations may be established in the suburbs of the city of Washington.

The Commissioners have full authority to appoint, assign to duty, promote, reduce, fine, suspend with or without pay, and remove all officers and members of the fire department, in accordance with rules and regulations which they may make.* By their regulations the Commissioners have determined the qualifications necessary for appointment to the fire department. An

* District appropriation act of March 3, 1909, pp. 6, 25.

* 34 Statutes at Large, 314.

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applicant is required to be able to read and write the English language, to be a citizen of the United States and to have been a resident of the District of Columbia for two years prior to his appointment, to conform to certain requirements as to weight, height, age, and good moral character, and to stand a physical examination held by the board of police and fire surgeons. Appointments are made only after a civil service examination which is held for the Commissioners by the Civil Service Commission of the United States. Punishments, except for minor offenses, and dismissals from the service, are imposed only as the result of a formal trial. Trials are held by the chief engineer, or by a board appointed by the chief engineer. The accused is in every case given an opportunity to be heard, and always has a right of appeal to the Commissioners. Trial boards of the fire department have power to issue subpoenas to compel the attendance of witnesses.*

On account of the hazardous character of the work of firemen, provision is made for those members of the fire department who may become disabled as the result of their services. One dollar is deducted each month from the pay of each fireman; the amount received in this way and the receipts from fines imposed upon firemen, together with a part of the receipts from fines in the police court and a part of the receipts from dog taxes, form a firemen's relief fund, which is used for the payment of pensions to firemen who, after having served for not less than twelve months, contract injury or disease in the line of their service or who, after fifteen years of service become so disabled as to be discharged from the fire department; and for the relief of widows, children or dependent mothers of firemen who may die of injury or disease contracted in the service. Payments may also be made from the firemen's relief fund for the medical or

* 29 Statutes at Large, 10.

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surgical treatment of firemen injured in the discharge of their duties. Firemen placed on the pension roll because of disabilities incurred during their service are subjected to a medical examination once in every two years to determine whether their disabilities still exist.*

In order that the fire department may render effective service an elaborate system of electric fire alarm boxes is necessary; the fire alarm system is under the control of the electrical engineer of the District of Columbia. The wilful giving of a false alarm of fire is a punishable offense.**

* 29 Statutes at Large, 405; 31 *ibid.*, 820; U. S. Statutes, 1907-08, Part I, pp. 39, 296; act of February 27, 1909. D. C. v. Bieber, 37 Washington Law Reporter, 95.

** 34 Statutes at Large, 220.

CHAPTER XII.

PUBLIC WORKS.

The local activities to be discussed in this chapter are to a large extent under the supervision of the engineer department of the District of Columbia. At the head of the engineer department is the Engineer Commissioner. Under him the department is organized into two divisions, each of which is in charge of one of the assistants detailed by the President of the United States from the Engineer Corps of the United States Army. The surface division of the engineer department has control of highways, including street extensions, the planting of trees on the streets, paving, and bridges; and of the surveyor's office. The subsurface and buildings division has control of the water supply, sewers, building, and plumbing. Building and plumbing have been discussed elsewhere.¹ The work of street cleaning and the removal of garbage; the lighting of streets; and the control of the park system, of playgrounds, of the bathing beach, and of markets, do not come under the supervision of the engineer department.

Streets and Bridges.—The Commissioners have power to open, extend, widen, or straighten alleys or minor streets (1) upon the petition of the owners of more than one-half of the real estate in the squares or blocks in which the alley or minor street is to be opened or widened; (2) when the Commissioners consider that the public interests require such action; (3) when the health

¹ See page 193.

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officer considers such action necessary on the ground of public health. For the determination as to what alleys and minor streets should be opened or extended the Commissioners have appointed a committee which is composed of the secretary of the board of charities, the surveyor, and the major and superintendent of police. The Commissioners also have power to close alleys which have become useless or unnecessary because of the opening of new alleys. Minor streets varying from forty to sixty feet in width may be opened through squares under the same conditions as apply to the opening of alleys. Except in the case of minor streets, the opening, extension, widening or straightening of streets and avenues is provided for separately in each case by special acts of Congress; but the actual work of carrying the acts into effect is performed by the Commissioners, and the rules for the condemnation of property for such purposes are practically the same for streets and avenues as for alleys and minor streets.³

Street and highway extensions outside the limits of Washington are made in accordance with a plan prepared under the direction of the Commissioners, and approved by a commission composed of the Secretary of War, Secretary of the Interior, and Chief of Engineers of the United States Army. This highway system conforms as nearly as practicable with the street plans of the city of Washington; highways provided by these plans are not less than ninety feet nor more than one hundred and sixty feet in width. The Commissioners have authority to

³D. C. Code, 1608-16081; 34 Statutes at Large, 151, 930. The Commissioners have no power to narrow a street. *Walter v. Macfarland*, 27 App. D. C. 182. As to the procedure to be observed by the Commissioners in opening or widening alleys, see *Fay v. Macfarland*, 37 Washington Law Reporter, 30. See page 106.

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name all streets, avenues, alleys, and reservations laid out in accordance with the plans for street extensions, as set out in the tables.

The paving of streets and sidewalks and other main features of roads are important functions of the engineering department.

Washington is one of the best paved cities in the United States; on July 1, 1908, the streets of the District of Columbia were paved with the following materials: as far as these spaces relate to the main squares and streets. The total area of streets is 141.63 acres.

Asphalt and coal tar. 141.63 acres have been paved with asphalt and coal tar.

Asphalt block. 27.96 acres have been paved with asphalt block.

Vitrified block. 0.92 acres have been paved with vitrified block.

Granite block. 25.42 acres have been paved with granite block.

Cobble. 7.29 acres have been paved with cobble.

Macadam. 83.11 acres have been paved with macadam.

Unpaved. 164.27 acres have not yet been paved.

The building of new pavements and the repair of those which have already been laid require the constant labor of a large body of men. Those whose property is benefited are required to pay one-half of the cost of setting curbs and of paving alleys and sidewalks; but the cost of grading and paving the carriageways of streets is defrayed entirely from the general funds of the District of Columbia.

All bridges in the District of Columbia are under the control of the Commissioners, except the aqueduct bridge across Rock Creek and the highway bridge across the Potomac, which are under the care of the Chief of Engineers of the United States Army.²⁷ Although the bridges are under the jurisdiction of the District of Columbia, the work of construction and repair is frequently placed in the charge of the Secretary of War. The con-

²⁷ Statutes at Large, 532; 30 id., 519; 33 id., 14; 34 id., 800, act of February 25, 1909.

²⁸ Statutes at Large, 264. D. C. Code, section 1574-1604. General Order No. 128, January 22, 1909.

²⁹ Statutes at Large, 544. ³⁰ Statutes at Large, 270.

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struction of the new highway bridge across the Potomac, and repairs to the aqueduct bridge across the Potomac were both conducted under the supervision of the Secretary of War.

The space between the sidewalk and the building line of each street is called the "parking" and is under the control of the Commissioners.¹ A superintendent of trees and parking has the care of these spaces, and has charge of the planting and care of trees upon the streets. Theoretically the superintendent of trees and parking acts under the supervision of a parking commission; such a commission was appointed in 1871 and was composed of three members, but no new appointments have ever been made; the present superintendent of trees and parking is one member of the Commission, and one member has died; the commission itself has practically ceased to exist.

Surveyor.—The surveyor of the District of Columbia is appointed by the Commissioners for a term of four years, and has charge of the platting and subdivision of land. All plats of subdivisions must be approved by the surveyor before building permits may be issued. When land is subdivided for building purposes it is required to conform to regulations made by the Commissioners with reference to alleys and the size of building lots; such subdivisions must be in conformity with the recorded plans for streets and highways in the District of Columbia and must be approved by the Commissioners. The surveyor, acting under the direction of the Commissioners, also performs other duties relating to surveys of land.²

Street Lighting.—The lighting of streets is in the charge of an electrical engineer, whose office is independent of the engineer department. Gas and electric lights are supplied by private companies under contracts with the Commissioners, and Congress

¹30 Statutes at Large, 570.

²D. C. Code, secs. 1574-1604. General orders regulating the platting and subdividing of lands and grounds.

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specifies by law the maximum rates which may be paid for such services. The electrical engineer also has charge of the fire alarm and police patrol systems, and of the telephone service for the offices of the government of the District of Columbia; and has supervision over plants producing electric light and power, and, over electric wiring in theaters and other buildings.^{*}

Electric Wiring.—The placing of telegraph, telephone, and other poles and wires upon the streets is a great inconvenience and to some extent a source of danger. Within the limits of Washington City all street cars are operated by the use of underground electric currents, but within the District of Columbia outside of the limits of the city the overhead trolley system is still used. No telegraph poles or wires are permitted upon the streets or alleys within the fire limits of the District of Columbia. The Commissioners may authorize the maintenance of telegraph poles in alleys and streets where the public interests do not require their removal.[†] Telephone poles and wires are not permitted upon the streets in the more densely populated portions of Washington; the location of poles in alleys within the densely populated area and upon streets in other parts of the District of Columbia is subject to the approval of the Commissioners. The Commissioners have power to authorize the construction of underground conduits for telegraph, telephone, and other wires; plans for such conduits are subject to the approval of the Commissioners, and the construction and maintenance of conduits is subject to the Commissioners' supervision.[‡] Companies or individuals constructing underground conduits are required to furnish free of charge to the District of Columbia and to the United States sufficient space for their telegraph, fire-alarm, and police-patrol wires. When it is remembered that not

^{*}33 Statutes at Large, 306.

[†]33 Statutes at Large, 984.

[‡]32 Statutes at Large, 393.

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day telegraph, telephone, and other wires, but also gas and water pipes, and sewers, run under the streets, it may be seen that the space under the streets is in many ways as important as the street surface.
Grade Crossings.—Grade crossings, or the intersection of streets and steam railways, are the single heavy form one of the greatest dangers to life in modern cities. The danger is minimized but not avoided by the requirement that railroads must slowly stop at crossings, and by the maintenance of gates, bells, and warning signals. When railroads were first constructed in the District of Columbia the danger from grade crossings was not appreciated, and railway tracks were laid in the same level as the streets. It has taken many years to remedy this situation, but with the completion of the new union station Washington is at last freed from grade crossings, all railway trains now entering the city through tunnels or on tracks elevated above the streets. Some grade crossings still remain, however, within the District outside of the city limits.
Street Cleaning, Garbage, and Beverage.—The cleaning and sprinkling of streets is in charge of a street-sweeping office, which is independent of the engineer department. The frequent cleaning of streets and alleys is necessary from a sanitary standpoint as well as for the convenience of those who use the streets. The more important streets must be swept daily, while others which are less frequently used are swept twice or three times a week. The careless throwing of paper and other refuse upon the streets greatly increases the work of the street-sweeping office. The greater part of the street cleaning is done by hand labor, each man on the street-cleaning force being assigned to cover a particular territory. These men are provided with bags, hand-sprinklers, brooms, and shovels, or with mechanical hand-sweepers. The sweepings are collected in bags and are then carted off to public dumps where they are used to fill up low fields.

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Special carts are used for the collection of paper and leaves. A large part of the street cleaning is done by machine sweepers which are driven by drivers. The machine sweeping is done under contract, and the execution of the contract is supervised by the street sweeping office by means of inspectors.¹¹ The hand cleaning of streets is done by men directly employed by the superintendent of the street sweeping office under the supervision of the Commissioners. During the winter the street sweeping office has charge of the removal of snow and ice, and during the summer it attends to the sprinkling of the streets. The street sweeping office also has charge of the collection and disposal of garbage, ashes, and other refuse. The disposal of garbage and other refuse is one of the most serious problems which a city has, and one of the most important, for the accumulation of garbage even for a short time during the summer would probably lead to a great increase of sickness. Separate contracts for the removal of garbage, ashes, dead animals and several other classes of refuse are made by the Commissioners with private companies or individuals, and the enforcement of the terms of these contracts is under the supervision of the superintendent of the street sweeping office. It is desired that such refuse may be properly handled, occupants of houses are required to provide themselves with metal vessels, also put their garbage into such vessels, and to place the vessels outside they may easily be found. By the drivers or attendants of wagons to which call for the collection of garbage, there is much no garbage, ashes, and several other classes of refuse are handled under separate contracts, occupiers of houses are required to keep each class of refuse separated from the others. The collection of garbage are made daily, tri-weekly, or semi-monthly in the several sections of the city, as the Commissioners may think it best to do.

¹¹ Report of the Commissioners for 1906, page 260.

" 33 Statutes to Table 851.

" 33 Statutes to Table 851.

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specify in their contracts with those who undertake the collection and disposal of household refuse. The hauling of garbage through a populous section may easily become offensive; on this account the contractors for the collection of garbage are required to collect and carry it in water-tight metal receptacles which must be kept tightly covered while they are being transported through the streets.¹¹ The Commissioners have power "to make all regulations necessary for the collection and disposal of garbage, miscellaneous refuse, ashes, dead animals, and night soil, and to annex to such regulations such penalties as may in the judgment of said Commissioners be necessary to secure the enforcement thereof."¹²

But what is done with all the refuse which is collected from the streets and houses of Washington? It has already been said that street sweepings are used for the purpose of filling in low lands, and a similar use is made of ashes. If left exposed to the air garbage soon becomes offensive. With reference to the District of Columbia Congress has specifically provided that all garbage "shall be disposed of through a reduction or consumption process in such manner as to entail no damage or claim against the District of Columbia for such disposal, and subject to the sanitary inspection and approval of the Commissioners. All contracts shall expressly provide that no garbage or other vegetable or animal matter shall be dumped into the Potomac River or any other waters, fed to animals, or exposed to the elements upon lands within the District of Columbia."¹³ By the reduction process to which garbage collected in the District of Columbia is submitted, the grease is extracted and then used for certain commercial purposes; the garbage is pressed, dried, and used in the manufacture of fertilizers.

¹¹ Police Regulations, 66; Report of the Commissioners for 1907, page 73.

¹² 33 Statutes at Large, 621.

¹³ 33 Statutes at Large, 621.

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We have spoken of the disposal of household wastes which are of a solid character. Liquid wastes are disposed of through sewers, which also carry off the rain water from the surface of the city. Such waste liquids and waters are usually conducted to some stream of flowing water if such a stream is available. The sewage of the District of Columbia is discharged into the Potomac River. When it goes into the water the sewage becomes greatly diluted, and through exposure to the influences of water and air soon loses its offensive character. Care is always taken that the sewage should not empty into and pollute water which is used for drinking purposes.

Parks and Playgrounds.—Parks and playgrounds form the breathing spaces of cities. In a densely populated city parks are almost as necessary for the health and well-being of the people as are pure water and proper sewerage. Parks and playgrounds for children are especially important, for healthy children need the opportunity to play; if they do not have such an opportunity their energy is apt to be turned into improper channels and to cause them to commit minor crimes and misdemeanors.

Rock Creek Park, the largest park in the District of Columbia, is under the joint control of the Commissioners of the District and the Chief of Engineers of the United States Army. The Commissioners and the Chief of Engineers, acting as a board of control, make regulations regarding the use of this park.¹⁶ The National Zoological Park is under the control of the regents of the Smithsonian Institution.¹⁷

With the exception of the above-mentioned parks, the whole park system of the District of Columbia is under the control of the Chief of Engineers of the United States Army, and is man-

¹⁶ 26 Statutes at Large, 492. Regulations for Rock Creek Park, published in Report of the Commissioners for 1908, I, 85.

¹⁷ 26 Statutes at Large, 78.

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aged by that officer under such regulations as may be prescribed by the President of the United States through the Secretary of War. The park system thus under the control of the Chief of Engineers includes not only the large parks but also practically all spaces in streets and avenues set aside for park purposes which exceed two hundred and fifty square feet in area. The public playgrounds are entirely under the control of the Commissioners of the District of Columbia. The Chief of Engineers and the Commissioners have authority to make all needful rules and regulations for the government and proper care of the parks and public spaces placed under their respective jurisdictions." 21 Under the Chief of Engineers of the United States Army, the parks of the District of Columbia are directly managed by an engineer officer in charge of the Office of Public Buildings and Grounds; and the annual report of this officer regarding parks in the District of Columbia appears as a part of the report of the Chief of Engineers of the United States Army. Appropriations for parks are made in the legislative, executive, and judicial and in the sundry civil appropriation acts, but one-half of the expense is borne by the District of Columbia. 22

In 1901 the Senate Committee on the District of Columbia undertook to prepare plans for the development and improvement of the entire park system of the District of Columbia. This committee caused to its aid four experts to act as a park commission. The park commission prepared elaborate plans for the development of a park system and for the location of monuments and public buildings. The report of this commission was never officially adopted, but the commission's plans have been substantially followed by Congress, and all new government buildings have been located in accordance with them. The commission

21 Rock Creek Park, Regulating Plan for Large Areas in estimated \$2 " 22

23 Statutes at Large, 530, I. Rules and Regulations for United States Parks and Reservations, Washington, D. C. (Washington, 1907) \$2 "

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proposed what is practically a return to the original plans of L' Enfant, but also outlined a plan for a greater park system. Only recently have the people of this country awakened to the need of making their cities beautiful, and the District of Columbia is fortunate in having a well-considered and definite plan for the development of its parks and for the best utilization of its natural scenery.¹⁶ It is urged elsewhere to make a larger playgrounds for children are the most important part of a city's park system. Playgrounds should be so numerous and located in such a manner that all children may have an opportunity to get to them easily. It has been only within the past few years that the value of playgrounds for Washington has begun to be appreciated. This movement in the District of Columbia was begun without official aid, and in 1903 the first public playgrounds were opened through the efforts of a Public Playground Committee organized in connection with the Associated Charities. This committee later developed into the Washington Playground Association. Appropriations for playgrounds were made by Congress in 1905, and have been continued since that year, although no appropriation was made in 1908 to pay for keeping the playgrounds open, and funds for this purpose had to be raised by private subscription. The congressional appropriations are expended by the Commissioners. In their administration of playgrounds the Commissioners act in close co-operation with the Washington Playground Association; this association annually raises a large amount by private subscription for the maintenance and development of public playgrounds. The school playgrounds are also kept open during the winter months by the school authorities.

The Improvement of the park system of the District of Columbia (Washington, 1902) 57th Congress, 1st Session; Senate Report 168); see also Papers relating to the improvement of the City of Washington (56th Congress, 2d session, Senate document 94), and Park Improvement Papers (Washington, 1902).

* D. C. Community Statistics, p. 46.

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the summer and are under the general supervision of the board of education.

Water.—A plentiful supply of pure water is necessary for every city. A small town may often be supplied from wells and from other local sources, but in a city it is necessary that water be distributed through pipes to every house. The need of a regular system of waterworks began to be felt in 1850 when Congress made a small appropriation to enable the War Department to make “such examinations and surveys as may be necessary to determine the best and most available mode of supplying the city of Washington with pure water.”¹⁹ The plan agreed upon was that of damming the Potomac River above Great Falls and conducting the water to Washington through a conduit or aqueduct. The construction of the aqueduct was begun in 1853, and the new water system was first used in 1859. Since that time various improvements have been made, new reservoirs have been constructed, and a slow sand filtration plant begun in 1901 was completed in 1906.

The dam and works at Great Falls, the aqueduct and the aqueduct road running from Great Falls to Washington, the aqueduct bridge across Rock Creek, the reservoirs supplying the city, the filtration plant, and the mains delivering water into the city’s distributing system are entirely under the control of the Chief of Engineers of the United States Army, and are managed under regulations prescribed by the President of the United States through the Department of War.²⁰ The water department of the District of Columbia takes the filtered water and distributes it throughout the territory supplied from the water-works system. This divided management is cumbersome and is much more expensive than if the whole water system were under

¹⁹ Statutes at Large, 543.

²⁰ D. C. Compiled Statutes, 546.

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one control. The Commissioners have for a number of years recommended that the aqueduct and filtration plant be placed under their control.

The administration of the water supply of the District of Columbia is under the control of a superintendent of the water department. This department has charge of the extension of water mains, the detection of waste, the collection of water rents, and of other functions which may arise in connection with the administration of the system. The water department is managed on a business basis; its expenses are defrayed from water rents and from assessments for the laying of water mains.

Besides its use in houses, water is used to extinguish fires, to sprinkle streets in summer, to flush sewers, and for other purposes. The use of water is therefore very great, but owing to a large amount of useless waste, much more water is consumed than is actually needed. It costs to filter water and to supply it to houses through pipes, the cost in the District of Columbia being about six dollars for each one million gallons. The daily consumption of water in June, 1905, was sixty-eight million gallons, or one hundred and ninety-eight gallons for each person in the District of Columbia. It is generally agreed that from fifty to one hundred gallons a day for each person is a liberal supply, and if this is true, more than thirty-three million gallons of water are wasted each day in the District of Columbia, at a cost of more than two hundred dollars a day. Some of this waste comes from underground leaks in water mains and pipes, but most of it results through carelessness in not turning off faucets and in other similar ways. The total storage capacity of all reservoirs from which the District of Columbia is supplied with water is about 637,000,000 gallons, the aqueduct cannot safely carry more than 90,000,000 gallons per day, and the maximum daily capacity of the filtration plant is about 90,000,000 gallons. When more than one hundred mil-

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large quantities of water are wasted on waste each day. For several consecutive days in winter the water in 1905, there is serious danger that the reservoirs will be drained and a failure of water results. It is the duty of the District of Columbia to supply the water system. The water rates charged by the District of Columbia are in most cases based on the number of inhabitants of each building, manufacturing establishments, hotels, and other places using large quantities of water, who are required to provide themselves with water, and are charged three dollars for each one hundred cubic feet of water which they use. The payment for water on the basis of house fronts is not satisfactory in that it makes careful persons pay for water wasted by others, and because such an arrangement does not teach consumers of water to be careful as to the amount which they do use. On this account Congress in 1906 advanced one hundred thousand dollars for the purchase and installation of water meters in private residences, and from its annual revenues the water department will extend the meter system, until all water is sold by meter. The meters placed in private residences are purchased and owned by the District of Columbia, for the measurement of water supplied by it and do not become the property of those in whose houses they are placed. It is thought that the sale of water by measurement will decrease its waste to a large extent. The unnecessary waste of water, and the failure to repair leaking or defective water fixtures, are punishable by fine, and by the cutting off of the water supply. The agents of the water department have the right to enter premises for the purpose of inspecting the water service or for other purposes in connection with their official duties. As water is an article held for sale by the water department only, it is unlawful for anyone to tap at any point in the system except to supply his own use.

In 59th Congress, 1st session, House document 8, part 60, page 261.

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Bathing Beach.—Most of the European cities and many cities of the United States have contrived public bathhouses for the benefit of their citizens. The inspection of plumbing which is specially intended that public bath houses be built in Washington, nothing having hitherto been done in this direction; and the only facilities for bathing outside of dwellings and private baths are those furnished by an unsatisfactory bathing beach for a few months in the summer. Not all private dwellings have adequate bathing facilities, and public bath houses are desirable not only because of the recreation which they afford, but also from a sanitary standpoint. Two public swimming stations have been erected in Washington, and are managed under the supervision of the chief inspector of plumbing, who has power to let out to no more than two markets and wharves. The Eastern and Western Georgetown, and wholesale produce markets are owned by the District of Columbia, and are managed by the sexton of weights and measures of the District; each market is under the direct control of a market master who enforces the market regulations and performs such other duties as may be prescribed by the Commissioners. The valuable wharf property on the Potomac and Anacostia rivers belonging to the United States is valued by law under the control of the Commissioners of the District of Columbia, and from its rental a sum equal to about sixteen thousand dollars is received. This wharf property is under the general control of a wharf master to whom it is comprised of the harbor master, engineer, fire chief, and chief of the engineering departmental office. The District of Columbia has also a water main or pipe without the written permission of the water department. To the District of Columbia may the subscription to the subversive of the work done by the Commissioners for Police Regulations, 82-84. Report of the Commissioners for 1908, p. 87.

²⁰ D. C. Compiled Statutes, 211; Police Regulations, 25-27.

* 30 Statutes at Large, 1877. Report of Engineers Department for 1907,
p. 167.

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Contracts for Public Work.—The greater part of the public work done under the supervision of the District of Columbia is done under contracts made by the District authorities with private individuals or companies; this statement does not apply to repair work which requires immediate attention. Detailed plans for each piece of work are prepared in the proper office of the District government, and if the total cost of the work exceeds one thousand dollars proposals are invited from contractors by advertisement, the advertisement giving full specifications as to the material with which the work is to be done. The Commissioners have authority to reject all proposals but if this is not done the lowest responsible bid must be accepted. Congress fixes by law the maximum price which may be paid for asphalt paving. Contracts for the construction, improvement, alteration, or repair of streets, avenues, highways, alleys, gutters, sewers, and for all work of a similar character may be entered into only with the unanimous consent of the Commissioners. All contracts are required to be recorded, and to be signed by the Commissioners; no contract involving the expenditure of more than one hundred dollars is valid without being so signed and recorded.*

Every contractor is required to enter into sufficient bond, with sureties approved by the Commissioners, guaranteeing that his contract shall be strictly and faithfully performed. Such bonds must be for not less than twenty-five per cent of the estimated cost of the work, but where the contract does not involve more than five hundred dollars the Commissioners need not require a bond**. All work done under contract is subject to close supervision and inspection by the District officials while it is being done. On all contracts made by the District of Columbia for

* 20 Statutes at Large, 105.

** 33 Statutes at Large, 704; 34 *ibid.*, 546.

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construction work a retain of ten per cent of the cost of the work is held as a guaranty fund to keep the work done under such contracts in repair, and that such contracts shall be strictly and faithfully performed. On contracts for the construction of asphalt, tar, brick, cement, or stone pavements the retain is held for a term of five years from the date of the completion of the contract. On contracts for the construction of bridges and sewers the retain is held for a term of one year from the date of the completion of the contract. On contracts for the construction of buildings and on other contracts for construction work the retain is held until the completion of the work. All retents for one year or more are deposited with the Treasurer of the United States."

Important general improvements, such as a general sewerage system, are paid for entirely from the general revenues of the District of Columbia, but much of the work is of special benefit to the property of certain individuals. So the laying of a sidewalk is an advantage to the public, but it is also of special benefit to the person in front of whose property it is laid. When an individual receives such a special benefit from an improvement he is required to pay a part of the cost of the work. This is done by a system of taxes called "special assessments," which have been discussed elsewhere.["] Of a somewhat similar character, and justified by their special use of the streets, is the requirement that street railways bear all of the expense of paving and repairing the part of the street between, and for two feet on each side of their tracks.["]

["] 34 Statutes at Large, 94, 929. For a general discussion of contracts made by the District government see page 77.

["] See page 105.

["] 20 Statutes at Large, 105.

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construction work a return of ten per cent of the cost of the construction work is paid as a bounty fund to keep the work going which constitutes in itself, and that such contracts shall be struck by any sufficiently experienced. Our contractor for the construction of roads, bridges, etc., price, cement, or stone base materials the return is held for a term of five years from the date of the completion of the construction. Our contractor for the construction of bridges and sewers the return is held for a term of one year from the date of the completion of the construction. Our contractor for the construction of public works and other contractors for construction work from of public works and no other contractors for construction work the return is held until the completion of the work. All returns for one year or more are deposited with the Treasurer of the

United States."

Important features of improvements, such as a general sewerage system, are basic for utility from the general revenues of the District of Columbia. But much of the work is of special benefit to the property of certain individuals. So the saving of a single tax is an advantage to the public, but it is also of special benefit to the bestowal in front of whose property it is laid. When an individual receives such a special benefit from an improvement he is led directly to pay a part of the cost of the work. This is done by a system of taxes called "special assessments," which base upon gross assessed value." Of a somewhat similar character, and distinguished by their special use of the streets, is the ledimentary street paving system of the city. It is the best of the best of the streets in front of whose property it is laid.

"*See page 102.*

"*See page 102.* For a general discussion of contracts made by the District Government see page 77.

"*See page 102.*

CHAPTER XIII.

PUBLIC EDUCATION.

History of the School System.—An act of Congress of February 24, 1804, gave the council of the city of Washington power “to provide for the establishment and superintendence of public schools.” The city council almost immediately made use of this power. By an act of December 5, 1804, it provided for a board of trustees of public schools. This board was composed of thirteen members, seven of whom were annually chosen by the joint ballot of the two houses of the council, and the other six by private individuals who had contributed more than ten dollars to the support of the public schools. President Jefferson was the largest individual contributor to the school fund and was the first president of the board of trustees. By the act of 1804 the board was required to make provision for the instruction of children whose parents were not able to defray the expense of their education, and an annual appropriation of not exceeding fifteen hundred dollars was made for the maintenance of schools.

The board of trustees organized in 1805 and adopted an elaborate plan of public education, but wisely confined its immediate efforts to plans which could be carried out with the limited funds at its disposal. Two schools were provided, one in the eastern and one in the western part of the city. Certain of the rules adopted for these schools are of sufficient interest to be quoted in full: “In these schools poor children shall be taught reading, writing, grammar, arithmetic, and such branches of the

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mathematics as may qualify them for the professions they are intended to follow; and they shall receive such other instruction as is given to pay pupils, as the Board may, from time to time, direct; and pay pupils shall, besides, be instructed in geography, and in the Latin language. The schools shall be open each day, Sundays excepted, eight hours in summer, and six hours in winter, to be distributed throughout the day as shall be fixed by the Board, except during vacation, which shall not commence prior to the first of August, nor continue after the 10th of September, and whose duration shall be fixed by the Board...Poor children shall be educated free from expense, the price of tuition to other pupils shall be five dollars a quarter...'' No poor pupil was permitted to continue in school longer than two years without the special order of the board.

The Western School was opened in January, 1806, and the Eastern School was opened several months later. In 1808 the city council greatly handicapped the work of the board by reducing the annual public appropriation for schools from fifteen hundred dollars to eight hundred dollars. A memorial was presented to the council asking for increased funds, but that body did nothing until 1812 when it authorized a lottery for the purpose of raising ten thousand dollars.

In 1816 Washington was divided into two school districts, each with a separate board of trustees. In 1820 the city council enacted a provision that no pupils should be taught for pay in the public schools, but that only children should be received whose parents were unable to pay for their tuition. This provision continued in force until 1844.

The city authorities had not yet come to realize the necessity of a free public school system for all children, and the free schools were in reality charity schools. Such schools accomplished some good but were defective in that they placed a stigma upon those who attended them.

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The beginning of a better school system for Washington dates from 1844. In that year the supervision of public schools was placed under the control of one board of trustees, composed of three persons elected annually, by joint ballot of the two boards of the common council, from each of the four school districts into which the city was divided, with the mayor as president of the board. The board divided itself into four sub-boards or committees for the supervision of schools in each of the four school districts. All white children between the ages of six and sixteen were admitted to the schools upon the payment of a tuition fee not exceeding fifty cents each month and were required to furnish themselves with such books as they should need. However, the discrimination between pay and charity pupils was maintained by the provision that children should be admitted free and supplied with books in case of obvious inability on the part of their parents to pay tuition or to furnish the necessary books. A public school system free to all pupils was not established until 1848, when all tuition requirements were abolished.

In 1848 an annual school tax was imposed, of one dollar upon every free white male citizen of the age of twenty-one or upwards, and in 1861 an annual tax of ten cents on every one hundred dollars of the assessed value of property was imposed for the support of public schools. By an act of 1868 a special school tax of fifty cents on every one hundred dollars worth of property was authorized not only for the city of Washington but also for the county of Washington and the city of Georgetown. After 1848 the city council was liberal in its support of schools, supplementing the school fund by means of appropriations from other revenues. In 1858 the city council passed an act providing that the members of the board of school trustees should be appointed by the mayor, with the advice and consent of the board of aldermen, and increased the powers of the board, but did not otherwise materially change its organization as provided by the

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act of 1844. In 1869 the council provided for the appointment of a superintendent of public schools, by the mayor with the advice and consent of the aldermen, to have general supervision of the schools under rules established by the board of trustees. By an act passed by the legislative assembly of the District of Columbia on August 21, 1871, the membership of the board of trustees was increased from three to five members for each school district. From 1871 to 1874 the members of the school board were appointed by the governor of the District of Columbia. This organization of the school system of the city of Washington continued until 1874, when all schools in the District of Columbia were placed under the control of a single board of trustees.

Until 1842 Georgetown made no effort to establish public schools but aided private free schools. In 1842 the private schools were taken under public control, and provision was made for a board of guardians of seven members to be appointed annually in a joint meeting of the two boards of the council, "for the purpose of more effectually securing a primary education to the poor of both sexes." Congress in 1856 authorized the levy for school purposes of an annual poll tax of one dollar upon every male white citizen who had attained the age of twenty-one. Georgetown retained its separate board of school trustees until 1874, but the members of the board were appointed by the governor of the District of Columbia from 1871 to 1874. A practical consolidation of the school systems of Washington and Georgetown was made in 1871 by the appointment of the same person as superintendent of schools of both cities.

In 1856 Congress passed an act for the appointment of commissioners of primary schools and for the establishment of a public school system in Washington county; this act was submitted to a vote of the white taxpayers of the county for acceptance and was rejected. Congress in 1862 practically re-enacted the measure of 1856, but made it applicable to the

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county without the consent of the people, and extended the terms of the act to colored as well as to white children. Under the act of 1862 as altered in 1864 the first system of free public schools was established for Washington county. Under these acts the county was divided into seven school districts, from each of which a commissioner of primary schools was annually appointed by the levy court. These seven persons formed a board of commissioners of primary schools, and had general control over the school system. The levy court was required to levy annually a school tax not exceeding one-fourth of one per cent on all taxable property. The school funds raised by this tax were required to be spent on white and colored schools in proportion to the number of white and colored children between the ages of six and seventeen. Under these acts a fairly successful system of public schools was established. During the school year 1871-72 the number of colored pupils was slightly greater than that of white pupils. The county board of school commissioners or trustees continued in existence until 1874, but from 1871 to 1874 its members were appointed by the governor of the District of Columbia.

Before the civil war there were no public schools for negroes in the District of Columbia. However, as early as 1807 a school for free negroes was opened in Washington, and from that time until 1860 there were always schools of this character, some of the schools at times being managed as free schools. None of these schools received public aid. During the earlier years of the civil war, when a large negro population began to be concentrated in Washington, religious and charitable organizations did something for the education of colored children.

In 1862 Congress passed an act requiring that the municipal authorities of Washington and Georgetown appropriate for colored schools ten per cent of the amount received from taxes levied on the real and personal property of colored persons; the

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boards of school trustees of these cities were to have control of the funds arising in this way and of contributions from private sources for the education of colored children. This arrangement was changed, however, during the same year, and the subject of colored education was placed in the hands of a board of trustees of the schools for colored children in the cities of Washington and Georgetown. This board was composed of three members who were named by act of Congress and whose successors were to be appointed by the Secretary of the Interior. The fund provided by the act of 1862 did not prove sufficient for the support of colored schools, and Congress in 1864 required the municipal authorities of Washington and Georgetown to set apart annually from their school funds such a proportionate part thereof as the number of colored children between the ages of six and seventeen bore to the whole number of children of school age in the two cities, and this provision was repeated in 1866. All funds for colored education in Washington and Georgetown remained under the control of the separate board of trustees of schools for colored children until 1874. This board was increased to nine members in 1873, and the power of appointing these members was vested in the governor of the District of Columbia.

At the beginning of 1874 the public schools of the District of Columbia were under four separate boards, a board of trustees of white schools of the city of Washington, a board of trustees of white schools of Georgetown, a board of trustees of schools of the county of Washington, and a board of trustees of colored schools of the cities of Washington and Georgetown. By orders of the Commissioners of the District of Columbia issued in 1874 these four boards were replaced by a board of trustees of public schools composed of nineteen members, of whom eleven were chosen from the city of Washington, three from the city of Georgetown, and five from the county of Washington. In 1878

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Congress transferred the powers of the board of school trustees to the Commissioners of the District of Columbia, and provided for the appointment by the Commissioners of a board of nineteen school trustees, who were to serve for such terms as the Commissioners might fix. In 1882 the membership of the board of school trustees was reduced to nine. An act of Congress of March 1, 1895, authorized the appointment of women as members of the board of school trustees, and increased the number of trustees to eleven. In 1900 the membership of the board was reduced to seven, and provision was made that the members should be appointed by the Commissioners for a term of seven years, one member retiring annually. The organization of the board of education was again changed by an act of Congress of June 20, 1906, which prescribes the present organization of the school system of the District of Columbia.

Board of Education.—The control of the school system is now vested in a board of education of nine members, all of whom must have been residents of the District of Columbia for five years preceding their appointment, and three of whom are women. The members of this board are appointed by the judges of the Supreme Court of the District of Columbia for a term of three years, and one-third of them retire annually. The members of the board serve without compensation, and are irremovable during the terms for which they have been appointed. The board meets at least once a month during the school year, and at such other times as it thinks proper. All meetings of the board are open to the public, except committee meetings dealing with the appointment of teachers. The board appoints a secretary, who has charge of its office and has the custody of school supplies.

The control of the school administration by the board of education is not absolute. The construction and repair of school buildings are under the direction of the Commissioners. All

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school supplies are obtained by means of requisitions upon the Commissioners, but the secretary of the board of education is a member of the committee which has supervision over the purchase of supplies for the District of Columbia. The board of education annually transmits to the Commissioners a detailed estimate of the amount of money required for public schools for the ensuing year, and the Commissioners are required to transmit this estimate to Congress; however the Commissioners also submit to Congress their own estimates for schools, which, in fact, usually differ little from those of the board of education, and in the congressional committee hearings on appropriations both the Commissioners and the board of education are heard; yet the board of education cannot be said to have absolute control over the annual estimates of funds necessary for the operation of the schools. All expenditures for schools are made and accounted for under the control of the Commissioners. All accounts against the board of education are first audited by the secretary of the board, and are then sent to the Commissioners for approval; they are subject to further audit by the auditor of the District of Columbia and by the auditing officials of the Treasury Department.

The board of education determines all questions of general policy relating to the schools, has the direction of expenditures for educational purposes, appoints the executive officers of schools and defines their duties, appoints and removes teachers, in conformity with the rules established by law.

The school system over which the board of education has supervision is composed of kindergartens, grade schools, high schools, manual training and trade schools, and normal schools. For the supervision of the school system the board of education appoints twelve standing committees, (1) on ways and means, (2) on elementary schools and night schools, (3) on normal, high, manual training, and trade schools, (4) on text-books and

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supplies, (5) on inspection and disposal of unserviceable material, (6) on sites, buildings, repairs, janitors, and sanitation, (7) on water supply and drainage, (8) on rules and by-laws, (9) on military affairs and athletics, (10) on playgrounds and special schools, (11) on school gardens, (12) on libraries and lectures.

School Organization.—The board of education appoints a superintendent of public schools, for a term of three years, who has direction and supervision over all matters pertaining to instruction in all of the public schools of the District of Columbia. The superintendent has a seat in the board and has the right to speak upon matters coming before it, but has no vote. The board has power to remove the superintendent at any time for adequate cause affecting his character and efficiency as superintendent.

Upon the written recommendation of the superintendent the board of education appoints a white assistant superintendent and a colored assistant superintendent. The white assistant superintendent has general supervision over the white schools, and is especially charged with supervisory control over the white high schools. The colored assistant superintendent, under the direction of the superintendent, has sole charge of all teachers, classes, and schools in which colored children are taught. In the District of Columbia there are really two systems of schools from the kindergarten to the normal school, one for white and one for negro children; both systems are in charge of the superintendent of schools, but the colored schools are almost entirely under the control of the colored assistant superintendent, who is practically almost an independent superintendent of colored schools, subordinate, however, both to the superintendent and to the board of education.

Each separate graded school is in charge of a principal, who has general control over the building in which the school is located, and who teaches the highest grade of the school. A

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graded school principal has some general supervision over the other teachers of his school, although his chief duties are simply those of a grade teacher; but the supervisory control is mainly exercised by thirteen supervising principals, each of whom has supervision over one of the thirteen divisions or groups into which the elementary schools of the District of Columbia are divided. Besides these supervising principals there is a director of intermediate instruction who has a general control over the school work from the fifth to the eighth grades, and a director of primary instruction who has a similar control over the work of the first four grades. There are also directors of music, drawing, domestic science, domestic art, and physical training, who have general control over instruction upon these subjects in the graded schools. Each graded school is thus subject to the supervision of a supervising principal, and with reference to its classes and special subjects of instruction is also under the general control of the directors of intermediate and primary instruction and of the directors of special studies. Kindergarten teachers are under the supervision of a director of kindergartens.

The high schools, manual training schools, and normal schools are each under the control of a principal, who has entire charge of his school subject only to the authority of the superintendent of schools, or in the case of the colored schools, to the colored assistant superintendent. The manual training schools are, however, under the general direction of a supervisor of manual training. The subjects taught in the white high and manual training schools are grouped into eight departments; those taught in the colored high and manual training schools are grouped into four departments; for each of these groups of studies there is a head of a department, who advises with reference to the teaching of these studies but who is inferior in authority to the principals of the separate high and manual training schools. Each high school teacher is thus subject to the

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supervision of his principal and to the advisory supervision of the head of the department to which he belongs. Except in the colored high school no high school class is permitted to be formed with less than ten pupils.

There are two normal schools, one for the training of white teachers and one for the training of colored teachers. Graduates from high schools are admitted to the normal schools upon pledging themselves to complete the prescribed course of study and to teach for two years in the public schools; candidates for admission to the normal schools are required to pass a mental examination for admission, and are subjected to a physical examination by the medical inspectors of schools to determine whether their physical condition is such as to justify their entering the teaching profession. Graduates of the normal schools receive diplomas which are equivalent to the lowest teacher's certificate in the District of Columbia, and they are appointed as teachers in the order of their rank, from eligible lists made by the faculties of the normal schools with the approval of the superintendent. Graduates of the normal schools are given the preference in the appointment of teachers in the graded schools.¹

Appointments, promotions, transfers, or dismissals of teachers or other subordinates of the superintendent of schools are made by the board of education upon the written recommendation of the superintendent. All teachers except those coming from the normal schools are required to pass an examination before their appointment. No person without a degree from an accredited college or a graduation certificate from an accredited normal school is eligible for appointment to teach in the normal, high, or manual training schools. For the examination of teachers there are two boards of examiners, one for white teachers, composed of the superintendent and two heads of departments of

¹31 Statutes at Large, 565.

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the white schools; and one for colored teachers, composed of the superintendent and two heads of departments of the colored schools. The heads of departments who serve as members of these boards are annually designated by the board of education. The names of persons passing the examinations form an eligible list from which appointments are made in the order of the rank of the candidates. All appointments of teachers and other employees are in the first instance made for a period not to exceed one year, but at the expiration of that time the board may, if it thinks proper, continue the appointment during good behavior.

Elementary teachers are annually rated by their respective supervising principals; normal, high, and manual training school teachers by their principals; and special teachers, by the directors of special studies; these ratings are subject to the approval of the superintendent of schools, who has the power to revise them as the result of personal investigation. No teacher may be promoted except by the board of education, upon the recommendation of the officer having direct supervision of the teacher, and in the case of colored teachers upon the additional recommendation of the colored assistant superintendent. Recommendations for promotions must in all cases be made through and with the approval of the superintendent of schools.

If a teacher proves to be deficient in professional qualifications he may be summarily dismissed by the board of education.* In other cases, however, the teacher is entitled to a formal investigation of charges made against him, at which he has the right to be attended by counsel and by at least one friend of his selection. The board of education has adopted regulations for the trial of teachers; according to these rules charges against teachers are required to be put in writing, signed by the person mak-

* U. S. *ex rel.* Nalle. *v.* Hoover, 31 App. D. C. 311.

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ing the complaint, and countersigned by the superintendent. The accused teacher must be notified of the time of the trial, and has the right to be heard and to summon any school employee to attend as a witness in his behalf. Proceedings in the trial of teachers conform as nearly as possible to legal practice and usage. Complaints against teachers are prepared by an assistant of the United States Attorney for the District of Columbia, who also acts as the legal adviser of the board of education in other matters.

Teachers and other school officers of the District of Columbia are grouped into six classes. For example, teachers of the third and fourth grades and kindergarten principals belong to the third class, teachers of the fifth, sixth and seventh grades to the fourth class, and teachers of the eighth grade to the fifth class. Promotions with increases of salary are made from a lower to a higher class. At the time of his appointment each teacher is assigned to one of these six classes by the board of education upon the recommendation of the superintendent of schools, and receives for the first year the minimum pay of his class; to this last rule however there is an exception in favor of normal, high, and manual training school teachers who may have been engaged in teaching before being appointed to positions in the schools of the District of Columbia.* Teachers of the first class receive an annual increase of twenty-five dollars for four years or until a maximum salary of six hundred dollars is reached; teachers of the second class receive a similar annual increase for four years or until a maximum salary of seven hundred dollars is reached. Teachers of the third class receive an annual increase of twenty-five dollars for ten years or until a maximum salary of nine hundred dollars is reached. Teachers of the fourth class receive an annual increase of thirty dollars for

* U. S. Statutes, 1907-08, Part I, p. 289.

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ten years or until a maximum salary of one thousand one hundred dollars is reached. Teachers of the fifth class receive an annual increase of forty dollars for ten years or until a maximum salary of thirteen hundred and fifty dollars is reached. The sixth class is divided into two groups; the members of group A, who are teachers in normal, high, and manual training schools, receive after their first year an annual increase of one hundred dollars for eight years, with a maximum salary of eighteen hundred dollars. Heads of departments in high and manual training schools form group B of the sixth class and receive an annual increase of one hundred dollars for three years with maximum salaries of twenty-two hundred dollars. Teachers who are also principals of grade school buildings receive an additional sum of thirty dollars annually for each class room under their supervision. Principals of normal, high, and manual training schools receive annual salaries of two thousand dollars, together with an annual increase of one hundred dollars for five years. Directors of special studies begin on minimum salaries and receive annual advances for five years.

The director of intermediate instruction, supervisor of manual training, and supervising principals begin with minimum salaries of two thousand two hundred dollars, with annual advances of one hundred dollars for five years. The superintendent receives an annual salary of five thousand dollars, and the assistant superintendents annual salaries of three thousand dollars each.⁴ In the assignment of salaries no discrimination is permitted to be made between male and female teachers employed in the same grade of school and performing a like class of duties.

All children above the age of six years who reside in or who own property and pay taxes in the District of Columbia, and all children whose parents reside in or are engaged in business or

⁴ 34 Statutes at Large, 315.

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public duties in the District of Columbia or who pay taxes there-in, are entitled to free instruction in the public schools. Other pupils may be admitted to and taught in the public schools upon the payment of tuition fees sufficient to cover the expense of their instruction and the cost of text-books and school supplies which they use. The amount of these tuition fees is fixed by the board of education, subject to the approval of the Commissioners of the District of Columbia.¹ All children of school age instructed in the schools of the District of Columbia beyond the second grade have a whole day school session; children in the kindergarten, first and second grades have a half day school ses-sion.

Compulsory School Attendance.—Children within the District of Columbia between the ages of eight and fourteen years are required to be in regular attendance upon either public or pri-
vate schools. Children are credited with attendance upon pri-
vate schools only by means of a certificate of attendance signed
by the person in charge of a private school. In case of the un-
authorized absence of a child from school for three days or for
six half-day sessions within any period of five months, the teach-
er is required to send a written notice to the truant officer, who
in turn sends a written notice to the parent or guardian requir-
ing the attendance of the child at school within three days. If
this notice is not complied with the parent or guardian may be
prosecuted in the police court and punished, upon conviction, by
a fine of twenty dollars. Any person who encourages children
unlawfully to remain away from school or employs them while
school is in session may be punished, upon conviction, by a fine of
not more than twenty dollars. The officers in charge of the
enforcement of this law are required to visit places where minor
children are employed, and must require all employers of chil-

¹34 Statutes at Large, 113.

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dren to furnish twice a year a list of children employed, with their names and ages. Any parent or other person who intentionally makes a false statement regarding the age of children between the ages of eight and fourteen years is punishable, upon conviction, by a fine of twenty dollars. The child labor law of May 28, 1908, forbids the employment of children under fourteen years of age, except in the cases where a child between the ages of twelve and fourteen has received a special permit from the judge of the juvenile court, and the employment of children under sixteen unless they have a certificate from the superintendent of schools showing that they have attended school during the preceding year and know how to read and write. Three truant officers are appointed by the board of education who, together with the probation officers of the juvenile court, enforce the provisions of the law regarding compulsory school attendance.⁴ Two inspectors to be appointed under the child labor law will also assist in the enforcement of the school attendance law. The compulsory education law of the District of Columbia is an excellent one, but it is manifestly impossible to enforce it properly by means of three attendance officers, with such assistance as it is possible for the probation officers of the juvenile court to give them.

Truant Schools, and School Discipline.—The juvenile court has authority to hear and determine the cases of all persons less than seventeen years of age charged with habitual truancy, and in its discretion to commit them to the board of children's guardians,⁵ but this power is used only in the last resort. As a rule such children are handled by the school authorities. The board of education has power to set aside school buildings or special rooms in a school building for the establishment of special or ungraded

⁴34 Statutes at Large, 219.

⁵34 Statutes at Large, 74.

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schools for the instruction of habitual truants and of other pupils who cannot be controlled by the regular school discipline. Backward and mentally defective children are also trained in the special ungraded schools.* Children may be removed to special schools for immoral conduct, indecent language, violent or pointed opposition to authority, persistent disobedience or disorder, habitual tardiness, unauthorized absence, and uncleanly condition of person or clothing; they are returned to their proper graded schools when satisfactory evidence is furnished of their improvement. For similar offenses children above the age of fourteen years may be suspended by a supervising principal, upon the recommendation of the teacher and of the principal of the building; or by the principals of normal, high, or manual training schools. A pupil may be dismissed by a vote of the board of education, or by the superintendent of schools, but in the latter case the dismissed pupil has a right of appeal to the board of education. Pupils may be transferred from one graded school to another by the supervising principals, and from one high school to another by the assistant superintendents. Under the rules of the board of education corporal punishment of children is to be avoided where possible. Each case of corporal punishment, with the reasons therefor, is required to be reported promptly by the teacher and to be forwarded through the principal and supervising principal to the superintendent of schools.

Evening and Vacation Schools, and School Gardening.—The feeling has long been developing that it is a useless waste to have school buildings idle and unoccupied during vacation time and for the greater part of every day during the school sessions. The need for night schools was early felt in the District of Columbia, and the city council of Washington in 1859 passed an

*For a description of these schools see the Washington Sunday Star of June 14, 1908.

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act requiring that night schools be opened. Such schools afford an opportunity for instruction to those who have failed to obtain an education and to others who may be unable to attend the day schools. During the school year 1906-07 there were thirteen night schools in session with a total enrollment of more than three thousand pupils; the schools were in session for sixty nights. In some other cities school houses have also been opened during the evening as study and reading places for pupils. Vacation schools, with a predominance of gardening and of outdoor work, have been very successful in Boston but little development of this character has yet taken place in the District of Columbia.

An interesting feature of school work in Washington has been that of school gardening. For each graded school which has available ground there is a garden, parts of which are cultivated by the children of the several rooms. Children's home gardens are also encouraged, and seed for home planting have been supplied to children at one cent a package. In 1906 and 1907 a plot of two and one-half acres of land was offered for use by the Secretary of Agriculture, and was successfully cultivated by school children, under the direction of a teacher; the work on this land was continued throughout the summer and furnished a substitute for a vacation school. The knowledge acquired in this manner impresses children much more strongly than any information of the same kind learned from books.

Free Lecture Courses.—An important development in the field of popular education has been going on in recent years in the establishment of free lecture courses for men and women. Many grown people who, through misfortune or neglect, have failed to obtain an education, need and appreciate the opportunity of benefitting themselves by attending such lecture courses. The free lecture system has been developed most successfully in New York City. In 1904 Congress appropriated one thousand five

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hundred dollars "for free evening lectures to be given in the public school buildings or such halls as may be designated under rules and regulations of the board of education,"^{*} and similar appropriations were made in 1905 and 1906, but were then discontinued. The free lecture system did not continue long enough in the District of Columbia to test its efficiency as a means of popular education.

Instruction of the Deaf, Dumb, and Blind.—The Columbia Institution for the Deaf and Dumb is supported by the federal government. All white deaf mutes of teachable age and of good mental capacity within the District of Columbia are committed to this institution for instruction, subject to the approval of the superintendent of schools. The expenses of such pupils are defrayed by means of annual appropriations from the revenues of the District of Columbia.["] Colored deaf mutes are placed in the Maryland School for Colored Deaf Mutes, under contract entered into by the Commissioners with that institution. Indigent blind children are trained in institutions outside of the District of Columbia, under contracts entered into with such institutions by the Commissioners.["]

Physical Training.—It has now come to be realized that the physical well-being of children is equally as important as their mental training. For this reason the need is increasingly felt for baths and gymnasiums in schools; some of the Washington high schools are so equipped but none of the grade schools have such facilities. Few school authorities have yet progressed so far as to maintain lunch rooms where pupils may obtain healthful food. The Western High School is provided with a lunch room, which was for several years managed by the board of education,

* 33 Statutes at Large, 379.

" 31 Statutes at Large, 844; 34 *ibid.*, 503.

" Act of March 3, 1909, page 26.

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but which is now run by a private individual, subject to the general oversight and direction of the school authorities.

School desks which are too large or too small for those who occupy them are injurious. In the District of Columbia a large number of the seats and desks are adjustable, and it is the teacher's duty to see that they are adjusted to the size of the pupils who occupy them. Playgrounds and playrooms are now recognized as necessary features of every school. Most of the schools in the District of Columbia have playgrounds and playrooms, and play during recesses is to a large extent directed by special teachers under the supervision of a director of physical training. Athletics and military drill form an important part of the physical training of pupils in the schools, but systematic training in these fields is confined largely to the high schools.

Text-books and School Supplies.—Text-books and school supplies are furnished free for the use of pupils in the first eight grades of the public schools. The superintendent of schools annually submits to the board of education a list of text-books recommended for the succeeding year, but changes of text-books may not be made more frequently than once in three years except by a three-fourths vote of the board; additions to the list may be made annually. Text-books and supplies are purchased under the direction of the Commissioners of the District of Columbia, upon requisitions made by the board of education. Supplies and text-books are furnished to the several schools by means of requisitions made by the principals of buildings upon the supervising principals, who in turn forward such requisitions to the superintendent of schools. Supervising principals are responsible for the proper care of all property belonging to the schools of their divisions, and are required to furnish annual inventories of such property.

School Buildings.—Each school building is in charge of a janitor who is appointed by the board of education and who is

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subject to the orders of the principal of his building. Janitors have the usual duties of attending to the heating and cleaning of school buildings. They are required to make such repairs as they are able to make and to report other needed repairs to the principals of their buildings. There is a superintendent of janitors who, under the direction of the superintendent of schools, supervises the work of all janitors and instructs them in their duties; he is required to inspect the heating and ventilating apparatus of the buildings and to report all needed repairs to the secretary of the board of education. Reference has already been made to the fact that it is one of the duties of the medical inspectors of schools to call attention to insanitary conditions in school rooms or school buildings.¹² At the request of the board of education or under instructions from the Commissioners systematic inspections of school buildings have been made by other departments of the District government. So in 1908 the fire department made a careful investigation of the condition of the buildings from the standpoint of fire protection, and in 1897 an investigation of the sanitary condition of schools was made under the direction of the health officer. For the regular and systematic inspection of school buildings two committees were constituted in 1908. One of these committees is composed of the assistant to the engineer Commissioner who is in charge of buildings, the inspector of buildings, and the chief engineer of the fire department; this committee examines all new buildings and inspects other buildings to determine questions regarding their structural conditions and the proper protection from fire. The other committee which is composed of the same members, except that the health officer displaces the chief engineer of the fire department, inspects buildings with particular reference to their sanitary condition.

¹² See page 179.

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Plans for new school buildings are prepared in the engineer department of the District of Columbia by the municipal architect, and are subject to the approval of the Commissioners.¹² Building repairs are also made under the direction of the municipal architect. In preparing plans and making repairs this officer necessarily acts in close co-operation with the board of education. Plans for new building are always submitted to the board of education before being approved by the Commissioners. All buildings of more than eight rooms are required by law to have at least four exits, and all doors are required to open outward.

In 1906 a commission was created by law, consisting of the Engineer Commissioner of the District of Columbia, the superintendent of schools, and the supervising architect of the Treasury Department, for the purpose of submitting to Congress (1) a general plan for the consolidation of the public schools in the District of Columbia and for the abandonment and sale of school buildings and sites no longer needed for school purposes, (2) a general plan concerning the character, size, and location of school buildings. This Commission in 1908 made an elaborate report on the construction and architecture of school buildings. The Washington graded school buildings are principally buildings of eight or twelve rooms, and the commission recommended that larger buildings be constructed, or that smaller buildings be so designed in future that they can be extended to buildings of sixteen or twenty-four rooms. It is probable that the recommendations of this report will be followed in the future construction of school buildings for the District of Columbia.

Public Library.—Small libraries are found necessary and are

¹² Act of March 3, 1909, p. 25. Until the passage of this act plans for school buildings were prepared under the supervision of the inspector of buildings; and building and plumbing repairs were made under the direction of the inspector of buildings and the inspector of plumbing.

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provided for the use of pupils in the public schools. But it is now realized that general public libraries open not only to children but also to adults are scarcely less important than the schools. A free public library was not established in the District of Columbia until 1896. The library is under the control of a board of nine trustees, each of whom is required to be a taxpayer in the District of Columbia. The members of this board are appointed by the Commissioners, and hold office for six years, but one-third of them retire each two years; they serve without compensation. The board of library trustees has power to make rules and regulations for the management of the library, and appoints a librarian who in turn appoints the necessary library assistants.¹⁴

All permanent or temporary residents of the District of Columbia are entitled to the privileges of the library, under regulations adopted by the board of library trustees. Books may be withdrawn from the library and kept for a definite length of time. Fines are imposed for the failure to return books when they are due, and any person who loses or destroys a book is required to pay for it. Any person who steals or wilfully injures a book, pamphlet, or manuscript in the public library may, upon conviction, be punished by fine and imprisonment.

The public library is designed principally as a circulating library, that is, as a library from which books may be drawn for home use; and for the purpose of reaching people who wish to use books in their homes a single central library is not sufficient. No branch libraries have yet been established in the District of Columbia, but several stations have been established where a small number of books have been placed for home circulation; it is intended, when possible, to establish branch libraries in the several sections of the District. However, the public library is

¹⁴ 29 Statutes at Large, 244.

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not merely a circulating library. It has large reading rooms to which anyone may go for study. Through its children's room, through its loans of books to teachers, and by means of a teachers' reference library established in its reading room, the public library works in close co-operation with the schools. Because of the lack of funds little has yet been attempted toward the establishment of branch circulating libraries in each school, but such branch libraries have been established in the schools which are remote from the library building.

CHAPTER XIV.

CONTROL OF BUSINESSES BEARING A CLOSE RELATION TO PUBLIC INTERESTS.

Public Utilities.—There are a number of businesses operated by private individuals or companies which bear such a close relation to the interests of the public that it is considered proper to subject them to rather strict public control. The most important businesses of this character are those which require the occupancy of streets, and which offer services almost necessarily used by a large part of the population of a large city, such, for example, as street railways, gas, electric light and power, and telephones; these and other businesses of a similar type are called public utilities.

So important are the public utilities in every large city that it has been a question for some time whether it would not be better for cities to go into the business of furnishing such services themselves rather than to grant the use of their streets to private companies for such purposes. Water is a public utility which is of greater importance than any of those mentioned above, and on this account the water supply in most American cities is owned and managed by the city governments. Reference has already been made to the fact that the waterworks of the city of Washington are jointly owned and operated by the United States government and the District of Columbia. In the District of Columbia the street railways, gas works, electric light and power, and telephone services are owned and operated by

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private companies, and there is little chance of Congress permitting the District of Columbia to purchase these businesses.

Public service corporations in the District of Columbia are chartered and granted their special privileges by Congress. Each charter is granted for an indefinite period, but is by its terms at any time subject to amendment, alteration, or repeal. By virtue of this reserved power with reference to public service corporations, Congress may at any time change the rates charged by such companies, require a specific quality of service, or require that the companies extend their service to parts of the District not already covered by them. Public service corporations are subject to congressional control with reference to their operation, and their charters may be withdrawn unless they comply with the regulations enacted by Congress. This congressional supervision is, however, not very satisfactory, because Congress has little time to devote to the local affairs of the District of Columbia, and because of the lack of congressional interest in such affairs.

Charters of public service corporations are considered and passed by Congress in the same manner as other legislation affecting the District of Columbia, that is, the Commissioners have a large share in determining what legislation shall be enacted by Congress. In order to prevent the introduction of bills for the granting of charters without the knowledge of the public, it is required by law that any person who intends to present an application to Congress for an act of incorporation, for the alteration or extension of a charter, or for any special privilege in the District, shall give notice of such intention by publishing a copy of the bill at least once a week for four successive weeks in a newspaper published in the District of Columbia.¹

The statements made above apply to all public service corpora-

¹D. C. Code, sec. 767.

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tions. It will now be well to consider what regulations Congress has enacted with reference to each of the several classes of public utilities, and what powers of control it has vested in the Commissioners, or in other bodies.

Street Railways.—Each street railway company has been granted its charter by a special act of Congress. There have been a number of companies incorporated in this manner for the construction and operation of street railway lines, but by a process of consolidation the street railways of the District of Columbia have practically come under the control of two corporations—the Capital Traction Company, and the Washington Railway and Electric Company. The charters provide for joint trackage arrangements when the tracks of two lines coincide, such arrangements to be made by an agreement between the companies, with an appeal to the Supreme Court of the District of Columbia when they cannot agree. No payment is required of street railway companies for the franchises granted to them by Congress, and there are no taxes specifically known as franchise taxes. However, street railway companies are subject to the regular taxes upon their real property, and pay also an annual tax of four per cent upon their gross receipts. In addition they are required to pave the space between and for two feet on each side of their tracks, and to pay the expense incurred for special policemen stationed by the Commissioners at important street railway crossings.* Usually they are required to pay one-half of the cost of maintaining bridges crossed by their tracks. All street railway companies in the District of Columbia are required to submit detailed annual reports to Congress.*

Each charter to a street railway company fixes five cents as the rate for a single fare and provides that six tickets shall be sold for twenty-five cents; these tickets are good on all lines

* 30 Statutes at Large, 489.

* 29 Statutes at Large, 320.

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within the District. The two controlling companies do not transfer to each other's lines, except at one point and then upon the payment of two cents in addition to the regular fare. Congress has reserved to itself the power of regulating fares and transfers, but has conferred other powers of regulation upon the Commissioners and upon the Interstate Commerce Commission.

All street railways within the city of Washington are required to use underground electric power, but the trolley system is permitted in other parts of the District of Columbia. Each charter to a street railway company specifically determines upon what streets the company may construct tracks and operate cars. Plans regarding the location and construction of new tracks are usually made subject to the approval of the Commissioners. Many of the charters have also provided that the construction of tracks should be subject to inspection by the Commissioners; and have required that the companies secure permits from the Commissioners before beginning their work, and deposit sums of money sufficient to guarantee proper construction and to pay for the inspection of the work while it is in progress.

An act of Congress requires that cars be provided with glass vestibules for the protection of motormen.⁴ Cars operated on the Aqueduct Bridge across the Potomac are under the direct control of the Commissioners, who have authority to make regulations regarding the character and weight of cars, time of operation, their speed, and the fares to be charged.⁵ Under authority granted by the charters of the companies and by general legislation, the Commissioners have for some time exercised control over the character of service rendered by street railways in the District of Columbia.⁶ The powers of control vested in the Commissioners were insufficient, and were different for the different

⁴33 Statutes at Large, 1001.

⁵32 Statutes at Large, 783.

⁶59th Congress, 1st session, Senate document 9, page 12.

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railway lines. Regulation of street railways by Congress had proven unsatisfactory, because that body as a rule had little time to devote to the local affairs of the District of Columbia. There has existed for some time a feeling that more adequate control was necessary, not only with reference to street railway companies but also with reference to all public service corporations.

In 1908 the Commissioners presented to Congress a bill by the terms of which power would have been granted to them to regulate the construction, operation, and rates of all public service corporations. Congress (or rather the Senate) was not willing to grant such extensive powers to the Commissioners, and a compromise measure was passed which conferred upon the Interstate Commerce Commission limited powers of regulating street railways. The Commissioners have thus been deprived of all control over the operation of street railways.

Every street railway company is required, on all lines operated by it in the District of Columbia, to "operate a sufficient number of cars clean, sanitary, in good repair, with proper and safe power, equipment, appliances and service, comfortable and convenient, and so [to] operate the same as to give expeditious passage, not to exceed fifteen miles per hour within the city limits or twenty miles per hour in the suburbs, to all persons desirous of the use of said cars, without crowding said cars." The Interstate Commerce Commission is empowered to compel obedience to these provisions, and to make all rules and regulations necessary for their enforcement.¹ The other duties of the Interstate Commerce Commission make it difficult for that body to undertake the detailed control of the local street railways. On this account the Interstate Commerce Commission has appointed three residents of Washington, one of them a member of the board of Commissioners, as an electric railway commission for

¹ U. S. Statutes, 1907-08, Part I, p. 250.

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the District of Columbia. This commission acts as an advisory board, recommends the adoption of necessary street railway regulations, and hears in the first instance all complaints regarding improper street railway service; every final action upon such complaints must be taken by the Interstate Commerce Commission, and all regulations for the control of street railways must be adopted by that body; but the detailed work of control is to a large extent vested in the advisory electric railway commission. This arrangement has not proven satisfactory, and the Interstate Commerce Commission has asked to be relieved of all duties in connection with the street railways of the District of Columbia.¹

Gas.—The two companies which supply gas to the public in the District of Columbia are chartered by special acts of Congress, and are subject to congressional control by virtue of the fact that their charters are at any time subject to amendment, alteration, or repeal by Congress. The rate at which gas is sold is prescribed by congressional enactment.² Each company is required annually to make a sworn statement to Congress, setting forth the actual cost and value of its property, the amount of its paid-up capital stock, the amount and character of its indebtedness, the names of its stockholders and the amount of stock held by each of them, the amounts paid as interest and dividends and reserved as surplus, together with a detailed account of its operating expenses for the year. Each gas company is also required to keep a set of books in accordance with forms prescribed by the Interstate Commerce Commission.³

Congress prescribes in a detailed manner the quality of gas to be furnished by the companies, and the gas is tested every day in order to see whether it conforms to the required standards.

¹ 60th Congress, 2d session, House document 1336.

² 29 Statutes at Large, 251.

³ 34 Statutes at Large, 1134; 31 ibid., 831; act of March 3, 1909, p. 18.

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A company supplying gas below the prescribed standards is subject to a heavy penalty.¹³ The gas companies are required to bear the cost of providing and fitting up laboratories for the testing of gas.¹⁴ In order to make sure that consumers receive the quantity of gas for which they are charged, gas meters are subject to inspection. Every new meter is required to be inspected before being installed. Meters already in use are inspected upon the written request of the consumer, or upon the complaint of the gas companies. Small fees are charged for the inspection of meters, but if a meter inspected upon the complaint of a consumer is found defective, the fee must be paid by the gas company. An inspector of gas and meters is appointed by the Commissioners, whose duties are to test all meters and to make the daily inspections of the quality of gas.¹⁵

Telephone and Electric Light.—Congress has not yet seen fit to regulate the rates charged to private consumers by companies producing electricity for purposes of light, heat, and power, nor to provide for the inspection of electric meters. The Commissioners have, however, been granted power to make regulations regarding the production and use of electricity by private parties. Electrical machinery and wiring are subject to inspection by the electrical engineer of the District of Columbia, such inspection being for the purpose of safeguarding against fire, and against dangers arising from defective machinery and uninsulated wires.¹⁶ Electric companies are required to present to Congress annually a detailed statement of their business operations for the year, together with an account of their rates and of their paid-up capital stock and indebtedness. They are also re-

¹³ 29 Statutes at Large, 251. This law is so framed as to be practically unenforceable.

¹⁴ 27 Statutes at Large, 543; 29 *ibid.*, 396.

¹⁵ D. C. Compiled Statutes, 246.

¹⁶ 33 Statutes at Large, 306.

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quired to keep a set of books in accordance with forms prescribed by the Interstate Commerce Commission.¹⁴ The rates for telephone service are fixed by act of Congress.¹⁵

Banks, Trust Companies, and Building Associations.—There are a number of businesses besides those of public service corporations which bear such a close relation to public interests that they are subjected to strict public control. Such businesses fall into two rather definite classes: (1) Those which affect the financial interests of a large part of the public and in which special safeguards are necessary to prevent mismanagement or fraud—banking and insurance are types of this class. (2) Those which are controlled because such control is necessary for the maintenance of public order or for other reasons of public policy—the liquor traffic is a type of this class.

National banks in the District of Columbia, are, of course, organized under the federal national banking law, and are subject to all provisions of law affecting national banks. They are under the supervision of the Comptroller of the Currency, are subject to periodical examination by that officer or his subordinates, and are required to submit frequent reports to the Comptroller. The Comptroller may take charge of national banks when the improper conduct of their affairs seems to him to warrant such action. All savings banks, savings companies, trust companies, and other banking institutions (except private banks and banks organized outside of the District) doing business in the District of Columbia are also under the supervision of the Comptroller of the Currency, who exercises over them practically the same powers as have been given to him over national banks.

¹⁴ 31 Statutes at Large, 831; 34 *ibid.*, 1134; act of March 3, 1909, p. 18.

¹⁵ 30 Statutes at Large, 538; 33 *ibid.*, 374.

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Building associations are subject to a similar supervision by the Comptroller of the Currency.¹⁷

Insurance.—The supervision over all matters relating to insurance in the District of Columbia is vested in a superintendent of insurance who is appointed by the Commissioners. No insurance company is permitted to do business in the District of Columbia without a license, and a license may be refused or may be revoked after it has been granted unless a company complies with the provisions of law relating to the conduct of its business, and makes a detailed annual report upon a form furnished by the superintendent of insurance. These annual reports are required to be printed in at least one newspaper published in the District of Columbia. Each company is also required to furnish an annual statement of the business done by it in the District of Columbia and to pay an annual tax of one and one-half per cent upon its premium receipts. The superintendent of insurance has authority to examine into the affairs of insurance companies organized under the laws of the District of Columbia; and may, under the general supervision of the Commissioners, make rules and regulations to which all insurance companies must conform in the conduct of their business. The superintendent of insurance makes an annual report to the Commissioners concerning the financial condition of all insurance companies doing business in the District of Columbia. Fraternal beneficial associations are subject to regulations of a character similar to those applied with reference to regular insurance companies. Every insurance agent is required to obtain an annual license in order to do business in the District of Columbia.¹⁸

Employment Agencies.—No person is permitted to conduct an employment agency in the District of Columbia without procur-

¹⁷ D. C. Code, secs. 713-748; 34 Statutes at Large, 458; act of March 4, 1909.

¹⁸ D. C. Code, secs. 645-657, 749-765.

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ing a license to do so from the Commissioners. The licenses are issued for a term not exceeding one year, and bond of one thousand dollars is required of every applicant to whom a license is granted. Detailed regulations are prescribed by law with reference to the rates charged by employment agencies and concerning the conduct of their business. The enforcement of these provisions is entrusted to the Commissioners who may revoke licenses for reasonable cause after a notice to the licensed person and after giving him an opportunity to be heard."

Liquor Traffic.—The control of the liquor traffic in the District of Columbia is exercised by an excise board which is composed of the assessor of taxes and of the three assistant assessors of real estate.* This board has power to make rules and regulations for the enforcement of the laws regarding the sale of liquor. It grants licenses for the sale of liquor, and no liquor may be sold without a license. Every application for a liquor license is required to contain the name and somewhat detailed information regarding the applicant, together with a statement as to the place where he expects to conduct business. Within the city of Washington each applicant for a liquor license is required to present with his application the written consent of a majority of the persons owning real estate and of the residents keeping house on both sides of the street in the block where it is desired to locate the business; if a barroom is to be located on a corner the consent of a majority of owners and occupants on both streets is required. Outside of the city of Washington each application must be accompanied by the written consent of a majority of owners and residents within a certain distance of the place where the business is to be established. A license once granted for a particular location may be renewed without the necessity

* 34 Statutes at Large, 304, 848; act of February 20, 1909.

** 32 Statutes at Large, 617.

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of again obtaining the consent of adjacent owners and occupants, unless a majority of such persons petition against the renewal of the license. No license may be granted to conduct a liquor business within four hundred feet of a school house or house of religious worship, within one mile of the Soldiers' Home, or at any point between the Government Hospital for the Insane and the Home for the Aged and Infirm or within a half mile from either of these institutions."²⁶

Premises where liquor is sold are at all times open to inspection by agents or officers of the excise board. Females and minors under sixteen years of age are forbidden to be employed in barrooms. Minors under sixteen years of age are forbidden to enter places where liquor is sold, without the consent of their parents or guardians. The sale to or the procuring of liquor for a person under twenty-one years of age is forbidden. Sale to an intoxicated person or to an habitual drunkard is also prohibited. Barrooms are required to be closed on Sundays and on other days between midnight and four o'clock in the morning."²⁷

Theaters.—The control of theatrical performances for the purpose of preventing immoral productions is vested in the Commissioners, who have authority to revoke licenses issued to theaters or to other places of public amusement whenever it appears to them, after due notice, that the persons holding such licenses have failed to comply with regulations prescribed to secure the public decency."²⁸

Money Lending.—Reference has already been made to the supervision exercised over pawnshops for the purpose of discovering stolen goods which may have been pawned. Persons who pawn articles of personal property usually do so because they are in great need of money, and on this account also they are

²⁶ 26 Statutes at Large, 797; 27 *ibid.*, 564; 28 *ibid.*, 75; 34 *ibid.*, 870.

²⁷ 27 Statutes at Large, 563; 30 *ibid.*, 1013; 34 *ibid.*, 1248.

²⁸ 31 Statutes at Large, 1463.

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apt to be at the mercy of the pawnbroker if he feels that he can charge exorbitant rates of interest. Great risk, however, attaches to the business of making such small loans, which are often not repaid and which may at times be made upon the pledge of personal property afterwards discovered to have been stolen. Pawnbrokers are forbidden to receive a greater rate of interest than three per cent per month on loans secured by the pledge of personal property, except that an additional charge may be made for the storage of such property when extra care is required to keep it.* This high rate is permitted only on small loans secured by personal property. The legal rate of interest in the District of Columbia is six per cent. In all cases except that of pawnbrokers where a contract is made for the payment of more than six per cent such a contract is deemed usurious, and the creditor forfeits all interest upon the debt which is due to him.**

Weights and Measures.—The inspection of weights and measures is primarily for the prevention of fraud in the sale of articles by weight and by measure. A sealer of weights and measures is appointed by the Commissioners; he has charge of the inspection of weights and measures; supervision over the inspection of lumber, wood and flour; and control over the fish wharves, markets, and public scales. Weights and measures used for commercial purposes are inspected, and if found to be correct are stamped so as to indicate their correctness; small fees are charged for these inspections; the use of unstamped weights and measures is forbidden. Special precautions are taken to obtain full weight in the sale of coal.*** All fire wood and lumber of-

* 26 Statutes at Large, 841. For an account of the manner in which this law is violated see 60th Congress, 2d session, Senate document 588, on the suppression of usury in the District of Columbia.

** D. C. Code, sec. 1180.

*** 28 Statutes at Large, 811; 29 *ibid.*, 192; 34 *ibid.*, 94, 315, 854.

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ferred for sale in the District of Columbia are required to be inspected by inspectors appointed by the Commissioners; these inspectors receive no salaries but are compensated by means of fees charged for the inspections which they may make. Public scales owned by the District government are operated by private individuals under annual contracts entered into as the result of a public auction. The fees to be charged for the use of these scales are prescribed by the Commissioners.

Automobiles and Public Carriages.—The operation of automobiles by unskilled persons is a source of great danger. By virtue of the general powers conferred upon them by Congress, the Commissioners have adopted regulations requiring every person desiring to operate a motor vehicle of any kind to be first examined by an automobile board composed of the permit clerk of the engineer department, an inspector of the electrical department, and the members of the board of examiners of steam engineers. Each permit issued for the operation of an automobile is numbered, and each automobile is also required to be numbered for purposes of identification.²⁷ Congress has further regulated in detail the speed at which automobiles may be driven in the city of Washington and in other portions of the District of Columbia.²⁸ The Commissioners regulate the fares to be charges by cabs, taxicabs, and other public vehicles.²⁹ The use of inaccurate taximeters is forbidden. No taximeter may be used unless a guarantee of its accuracy is filed with the hack inspector at the police headquarters, and taximeters are at all times subject to inspection by the police; taximeters are also subject to periodical inspection by the sealer of weights and measures.

²⁷ Police Regulations, 79-82.

²⁸ 34 Statutes at Large, 621.

²⁹ Act of March 3, 1909, p. 41.

CHAPTER XV.

PARTICIPATION OF THE PEOPLE IN THE GOVERNMENT OF THE DISTRICT OF COLUMBIA.

Reference has already been made to the fact that Congress has not seen fit to grant to the people of the District of Columbia any legal share in their own government. The inhabitants of the District possess only the political rights guaranteed by the federal constitution: the liberty of assembly and of association, freedom of expression both by speech and in writing, and the right of petition. It is now our purpose to inquire what use the citizens of the District of Columbia make of these constitutional rights, and how they have developed organizations which take an active part in the government of the federal district.

Local citizens' associations existed in the federal district before 1878, but their development as active factors in the administration of local affairs did not take place until after the act of 1878 which established the present system of government and deprived the citizens of the District of Columbia of all legal share in ruling themselves.¹ There are now more than thirty citizens' associations in the District of Columbia, each covering a definite area of its territory. These associations are open to all residents of their sections either upon the payment of small fees

¹ It should be remembered that the inhabitants of the District of Columbia had no share in governing themselves from 1874 to 1878, but the form of government during this period was looked upon as purely temporary both by Congress and by the people.

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or without any payment whatever. In organization and general methods they are alike. Each association has a written constitution; and a president, secretary, and other necessary officers. Their meetings are held at stated times for the purpose of hearing the reports of committees, of discussing questions which may be brought before them, and of expressing their opinions by means of formal resolutions, memorials, or petitions. Meetings are usually held during the winter only and either monthly or once every two weeks.

Each association transacts its business largely through standing committees, which investigate matters committed to them and report their opinions to the association. When a committee's recommendations are once approved by an association, the committee is usually given full power to take positive action in the matter, and is thus really an executive organ of the association as well as a body for the consideration of questions submitted to it. In each association there are separate committees for the consideration of the important subjects arising in connection with the local government, such for example as steam railways; streets, avenues, and alleys; water, light, and sewers; assessment of taxes and apportionment of appropriations; public parks and spaces; schools; sanitary affairs; street railways; police and fire protection; and proposed legislation by Congress. The committees are appointed by the presidents of the associations, and power is usually given to the president to appoint as many members on each committee as he may think proper. In order that the committee recommendations may be prepared with the proper care some associations require that their committees report only in writing.

As will be seen from the above outline of their organization each association has a committee for the consideration of all governmental activities affecting the territory which it covers. The associations, by having representatives at hearings held by

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the Commissioners and by the committees of Congress, and by means of resolutions and petitions, vigorously and persistently present the special needs of their localities before those who have authority to act in a governmental capacity. The associations represent the interests of their several sections and are listened to with respect by the District authorities and by the committees of Congress. In a measure they furnish a substitute for representative self-government.

These local associations concern themselves principally with local affairs—with matters concerning the opening of new streets in their sections, with paving, lighting, sewers, parks, street railway service, police and fire protection, school buildings, and other matters of a similar character. The sub-committees of Congress on District appropriations do not ordinarily go back of the estimates of appropriations submitted by the Commissioners, and usually refuse to grant hearings to representatives of citizens' associations or to any others than those officially connected with the government of the District of Columbia. On this account it is necessary that associations desiring improvements in their respective sections should present their claims to the Commissioners before the annual estimates are made up. Projects of local improvements are submitted to and are discussed by the associations and if approved are presented in writing to the Commissioners. Several of the associations follow the practice of presenting to the Commissioners an annual statement of all important improvements desired in their respective sections. These statements serve to emphasize the local opinion as to what improvements are of most importance and to bring about united action in the effort to obtain such improvements. The Commissioners use the statements of citizens' associations for guidance in making up their annual estimates, and sometimes hold public hearings in order to obtain further information regarding matters recommended by the associations. The Com-

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missioners cannot know intimately the needs of every section and the presentation of local statements and opinions is of great help to them and to the other officers of the District government.

As has already been intimated, the local citizens' associations confine themselves largely to efforts for the improvement of their several localities. Sometimes such efforts are directed against an evil of a local character which is also of wider significance. So, for example, a local citizens' association accomplished a great deal toward starting and bringing to a successful termination the movement against grade crossings of steam railways in the city of Washington. Oftentimes it happens that all associations in a certain section of the federal district are interested in the same matter and work either separately or in an informal unity toward the same end. So a number of associations have worked together informally for the extension of street railway service in certain directions, and in the effort to obtain the passage of measures for the reclamation of the Anacostia flats. Four associations covering contiguous territories have united more formally by means of the annual appointment of delegates to a joint committee, but this joint committee has no power of separate action without the approval of the several associations.

When matters arise of general importance to the District of Columbia they are frequently discussed in the citizens' associations, and the views of such associations are formally expressed and made known to the Commissioners or to the committees of Congress. General school legislation, proposals for changing the form of government of the District, the regulation of the price of gas, the control of public utilities, and other questions of a similar character bring out expressions from many associations, but such expressions are apt to lose weight because of their lack of unity and their divergence of opinion.

The feeling that unity of action was necessary to bring about the best results in exerting an intelligent influence in the gov-

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ernment of the federal district led to the formation in 1887 of a representative committee of one hundred, composed of delegates from nine local associations. This committee continued in existence for several years, but did not prove very satisfactory. The work which it attempted to do has been more effectively continued by means of the independent organization of a board of trade. Since 1890 practically all of the citizens' associations have at times undertaken joint action for specific purposes. In 1894 the executive committees of nine associations united in the preparation of a memorial to Congress in opposition to the repeal of the legal provision requiring the federal government to defray one-half of the cost of the administration of the District of Columbia. In 1902 twenty-two associations united in drafting a bill for the regulation of street railways, and this bill was after a public hearing adopted by the Commissioners and presented by them to Congress.

The need for closer co-operation among those interested in the affairs of the District of Columbia brought about in 1889 the establishment of the Washington Board of Trade. This body is not devoted to the interests of technical business or industry, but is really an association for the promotion of the general welfare of the federal capital, by influence with Congress, by co-operation with those in control of the District government, and by the encouragement of united voluntary effort.² The board of trade does not confine its membership to persons engaged in business, but admits all individuals who come properly recommended and who pay the annual dues of ten dollars. It now has more than six hundred members, and has on its membership list the names of nearly all persons prominent in the business and professional life of the District of Columbia. The board of trade

² Meriwether, *Washington City Government*, in Political Science Quarterly, XII, 407.

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is composed of members residing in all parts of the federal capital, and is fairly representative of the whole District. Many of its members are prominent in the local citizens' associations, and it includes members of practically all these organizations. Because of these facts it best represents public opinion in matters affecting the general interests of the District of Columbia and exerts a unifying influence with reference to such matters.

The board of trade usually takes up only matters which affect the entire District and with reference to which it can bring a united influence to bear upon the proper authorities. In the investigation of questions it acts through standing committees, of which there are more than twenty, having charge of such subjects as charities and corrections, bridges, commerce and manufactures, insurance, mercantile interests, parks and reservations, the press, public buildings, public health, the public library, public order, schools, railroads, river and harbor improvements, sewerage, streets and avenues, taxation and assessment, transportation, and water supply. Special committees are created for the consideration of other matters which come before the board.

The board of trade acts in close co-operation with the Commissioners in its efforts to bring about desired results, and renders them material assistance by collecting information upon various subjects and by acting as an advisory body. It forms in this way almost an integral part of the District government. Matters are frequently referred to the board by the Commissioners, and conferences are often held between its committees and the Commissioners. The endorsement of a measure by the board of trade carries great weight with Congress, and the board's committees or representatives are heard with respect by congressional committees.

The Washington Chamber of Commerce is an organization of more recent origin, but somewhat similar in character to the board of trade. Although it devotes its principal attention to the

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commercial development of Washington, it has committees on municipal legislation, and has taken an active interest in school affairs and in other matters connected with the local government. The chamber of commerce has made an effort, as yet without success, to bring about a formal union of the local citizens' associations, by means of a provision in its by-laws that "committees representing each of the citizens' associations in the District may be formed within the Chamber of Commerce when at least five members of the associations desiring to form such committees are members of the chamber."

The meetings of the general and local associations are conducted in an earnest and business-like manner. Only those attend who are interested, and the purposes of the meetings conduce to bring together those best qualified to take part in public affairs. The aims of the associations are disinterested, and their work is done in a thorough and substantial manner. The number of those who are actively interested in the public affairs of the District of Columbia through citizens' associations, board of trade, and other organizations of a similar character, is large, and is probably as great as in cities where full control of local affairs is exercised by the people through their right to vote.

In addition to the organizations already discussed there are a number of associations which devote their attention to limited subjects and exert much influence upon the District government and upon Congress in such matters. The Civic Center confines itself principally to the field of social reform; it has conducted important investigations of housing conditions and of the sanitary condition of schools, and has had a large share in obtaining the passage of child labor and compulsory education laws. Some of the other organizations which devote their attention to limited subjects are the Washington Playground Association and the Public Education Association. The medical, legal, and other professional societies, the Associated Charities, and the Citizens'

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Relief Association also exercise great influence with reference to matters which concern their particular fields. Special organizations or committees of citizens are often formed to exert influence for particular purposes, as was a citizens' committee to press the passage of a child labor law, and a similar committee organized for the purpose of attempting to obtain an alteration of the congressional policy with reference to the extraordinary expenses of the District of Columbia. Another form of popular participation in the government of the federal district exists in that the Commissioners occasionally call together a number of especially qualified citizens to advise them with reference to proposed regulations or legislation, as with reference to the revision of the building regulations and with regard to the regulation of the production and sale of milk. In 1908 several architects and builders, upon the request of the Engineer Commissioner, undertook to act as a volunteer committee to investigate the condition of school houses in the District of Columbia; the committee made a valuable report upon this subject.* It should also be mentioned that in the hearings held by the Commissioners and by congressional committees upon general matters affecting the federal district, individuals who represent no organization are permitted freely to appear and to state their opinions, which are listened to with attention.

Those interested in matters of importance to the District of Columbia often find great difficulty in obtaining needed congressional action because of the lack of interest and of knowledge upon the part of many members of the Senate and the House of Representatives. Outside of the District of Columbia and appropriation committees, members of the House and Senate are to a great extent unfamiliar with local affairs. In order to stimulate interest in the affairs of the District of Columbia the citi-

* 60th Congress, 2d session, House document 1346.

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zens' associations and board of trade make a practice of inviting members of Congress to attend their meetings and to address them; they also attempt by social entertainments and in other similar ways to attract congressional attention to important local problems.

It may be of interest to mention the fact that although the people of the District of Columbia have no right to vote, organizations of the democratic and republican parties are maintained whose sole purpose seems to be to provide every four years for the choice of delegates from the District to the democratic and republican national conventions. These party organizations have little vitality, and have no influence in matters of importance to the local government of the federal district. On account of the absence of party lines in the federal district, the newspapers are probably more influential in local affairs than in any other municipality of the country.



CHAPTER XVI.

SUMMARY AND CONCLUSIONS.

In the foregoing account an effort has been made to present a description of the structure and operation of the government of the District of Columbia. We have seen that no powers of self-government have been granted to the people of the federal capital; and that the administrative control over the District of Columbia and a large share of local legislative power are vested in three Commissioners appointed by the President of the United States. This organization is purely autocratic in form, but is to a large extent democratic in operation because of the fact that local citizens' associations and other popular bodies have great influence both with Congress and with the Commissioners.

Publicity in the management of the affairs of the District is secured under the present system by congressional investigations and hearings, by frequent reports which are required from the Commissioners, and by an active public opinion which is localized and brought into organized form by means of numerous citizens' associations. Political considerations do not interfere with the conduct of public affairs, and the work of government is conducted on business principles. Complaints of fraud and corruption are infrequently heard; the administration is conducted honestly and with a fair degree of efficiency.

Many proposals have been made for the alteration of the present system of government in the District of Columbia. The most radical of these proposals involves the conferring of mu-

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nicipal self-government upon the District of Columbia, and the amendment of the constitution so as to provide for the representation of the District in the House of Representatives, Senate, and electoral college. Other proposals look toward the grant of suffrage only to a limited extent, as with reference to important subjects of legislation or in the choice of certain officials. The most interesting proposal for the granting of self-government to the District is that submitted to Congress in 1909 by a convention representing fourteen local citizens' associations. The proposal of this convention involves: (1) The election by the people for a term of three years, of a governor who should exercise all executive power now vested in the three Commissioners. (2) The election, for the same term of years, of five persons who, together with five other persons appointed by the President of the United States, should form a board of commissioners exercising the local legislative power, the governor to have a vote in this board in case of a tie. (3) The election of a delegate to the House of Representatives by the people of the District of Columbia. (4) The suffrage to be conferred upon males over twenty-one years of age, who have resided in the District for one year, are able to read and write the English language, and have paid taxes upon property of the value of five hundred dollars.¹ It is hardly worth while to discuss this plan because there is no possibility that Congress will adopt a scheme of limited suffrage. Indeed no plan for local self-government seems now to command a popular support sufficient to compel respectful attention from the national legislative bodies. There now seems to be little prospect of a return to a system of local self-government. However, Congress may take the step of establishing in the District an advisory referendum, that is, it may submit important local questions to a vote of the people simply

¹ 60th Congress, 2d session, Senate document, 684.

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for the purpose of learning what is the prevalent local opinion, without binding itself in any way to act in accordance with such expression of opinion; the chairman of the House Committee on the District of Columbia has already suggested the use of the referendum upon the question as to whether or not liquor shall be sold in the District.

More important are the proposals which relate to the substitution of a single executive head for the three Commissioners. Two somewhat elaborate plans for this purpose have been presented, one in 1888 by the citizens' representative committee of one hundred; the other proposed in 1907 by Mr. James B. Reynolds, and urged upon Congress in 1908 by President Roosevelt. It will be of interest to give rather full outlines of these plans.

The plan of the citizens' representative committee provides for the appointment of one commissioner as the chief executive officer of the District, who should have the same qualifications and term of service as the present civil Commissioners. It makes provision also for the appointment by the President of the United States of a council of fifteen members, one each from fifteen council districts into which the federal district should be divided. The council should have full powers of municipal legislation, subject to a veto by the commissioner which might be overcome by a two-thirds vote of the council; and should prepare the annual estimates of District expenses. The council should also have authority to submit to Congress such bills as it might deem expedient. The important administrative officers of the District should be appointed by the commissioner, with the advice and consent of the council.

The Reynolds' plan contemplates the appointment of a governor as the chief executive officer of the District of Columbia, this officer to be appointed either from the District or from among persons who have served as mayors in cities of not less than fifty thousand inhabitants. It provides also for the crea-

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tion of departments of health, police and fire, buildings and public works, street engineering, charities, corrections, and housing and labor, each with a commissioner at its head, appointed by the President upon the nomination of the governor of the District. The heads of these seven departments should form a council for the enactment of municipal ordinances, but such ordinances should be subject to the approval of the governor. The Reynolds' plan also suggests the appointment by the President of a committee of one hundred representative citizens, such committee to express popular sentiment with reference to matters affecting the government of the federal capital.*

Each of these plans is weakest in its provision for a municipal legislative body. The plan of the citizens' committee would introduce the ward system and, as each member of the council would look after the interests of his own district, would lead to the practice of "log-rolling," and would not develop any broad municipal policy. The Reynolds' plan would almost inevitably lead to a somewhat similar result. It places the work of local legislation upon technical experts, and as the head of one department could not know what ordinances would be best in the field covered by another department, each of the seven commissioners would probably come to a tacit agreement with the others that municipal legislation with reference to his department should be enacted as a matter of course upon his recommendation; that is, in practice, the health commissioner would legislate for health and each of the other commissioners for his own department. The legislative body would on this account probably proceed from a too narrowly technical point of view, though the proposed provision for public hearings and for approval of legislation by the governor would minimize this danger. Another defect of this plan is that it provides for the appointment of the

* 60th Congress, 2d session, Senate document 599.

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governor and of the seven heads of departments by the President, these officers presumably being subject to removal only by the President. The heads of departments are not made responsible to the governor, but after they are once appointed seem to be responsible directly to the President who has power to remove them. The appointment of heads of departments is made upon the recommendation of the governor, but in case a head of a department, once appointed, comes into conflict with the governor or with other heads of departments, the controversy must be submitted to and settled by the President. The District would thus have eight practically independent executives, bound together only by their common dependence upon the President of the United States.

The Reynolds' plan is also defective in that it permits the appointment of a governor and of the seven commissioners of departments from outside of the District of Columbia, and thus reduces to a minimum the power of local public opinion over these officers. The object sought by this plan is that of definite individual responsibility to the President, and in order to enforce this responsibility it would be necessary that the President take an active and sustained interest in the affairs of the District of Columbia. Few presidents have taken sufficient interest in the affairs of the federal capital to make such a plan work successfully, and it seems hardly safe to assume that future presidents will take such an interest. The proper responsibility of District officials can probably best be enforced by means of an intelligent public opinion which may be brought to bear upon them by the people over whom they are set to rule.

The purpose of both the Reynolds' and the citizens' committee's plans is substantially the same—that of obtaining a definite individual responsibility for the conduct of governmental affairs in the District of Columbia. Both plans propose the same remedy—that of a single executive head. In as much as it is

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hardly thought proper to confer legislative power upon one individual, both plans propose the establishment of a separate municipal council. Individual responsibility is aimed at with respect to local administrative functions; but, on the other hand, collective action is desired for the enactment of local legislation.

Under the present system legislative and administrative powers are combined in the same body. The board of Commissioners as a body is responsible for the District administration. However, it is proper here to repeat that the Commissioners have divided the District affairs into three approximately equal groups one of which is assigned to each of them, and that each Commissioner exercises practically independent control over the affairs committed to his charge. Although not authorized by law this arrangement has existed since 1878, and was probably contemplated by Congress, in as much as it was assumed by that body that the Engineer Commissioner should have general control over public works. Under the arrangement of divided duties it is true, however, that an action may be taken by one Commissioner for which the board of Commissioners is responsible—the responsibility for all governmental activities is a joint responsibility of three Commissioners, while the power to act is often vested in and exercised by one Commissioner. It is this fact which now makes it difficult to place a definite responsibility for every administrative act. The division of duties among the Commissioners is now of a somewhat informal character, and a citizen of the District having business with the local government frequently does not know which Commissioner has supervision over the matter in which he is interested. It would seem that this situation might be remedied by a legal provision: (1) That each board of Commissioners when it organizes should apportion the administrative duties among its three members as at present. (2) That public notice of such apportionment should

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be given, and that no change should be made without similar notice; this is also the present practice. (3) That each Commissioner should be individually responsible for the duties assigned to him. The first two suggestions relate simply to the legal recognition of an existing practice. The third suggestion aims at a closer definition of the administrative duties and responsibilities of each Commissioner, and leaves in the hands of the board of Commissioners as a body the local legislative power and the decision upon questions of general policy. The suggestion here made contemplates no change in the general structure of the present government, and does not propose to make the Commissioners merely heads of departments of the District government. Each Commissioner should, as at present, simply exercise general supervision over the matters placed under his charge, and the detailed work of administration would remain under the direct supervision of the heads of the several offices and departments.

One of the most serious drawbacks to good administration is the division of authority among numerous governmental agencies. The territorial government which existed from 1871 to 1874 was pre-eminently a government of divided authority. Legislative and executive powers were exercised by a governor and legislative assembly, a board of public works, a board of metropolitan police, a board of health, and four boards of education; each board was to a large extent independent within its own field. The temporary board of Commissioners created in 1874 was granted such executive powers as had theretofore been exercised by the governor and board of public works, but the separate boards of police, health, and education continued in existence. One of the purposes of the organic act of 1878 was to centralize administrative authority; for this reason the board of metropolitan police and board of health were abolished, and the board of education was made subordinate to the Commissioners. In re-

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cent years there has been a tendency to divide authority with reference to local matters—the board of charities created in 1900 is appointed by the President of the United States and is to a large extent legally independent of the Commissioners; a somewhat similar position of independence is occupied by the board of education created in 1906. The supervision over banks is vested in the Comptroller of the Currency, and by a law of 1908 control over the street railways is placed in the hands of the Interstate Commerce Commission. In speaking of the divided authority in the local affairs of the federal capital it should again be mentioned that practically the whole park system and a large portion of the water-supply system are under the control of the Chief of Engineers of the United States Army. The lack of a clear differentiation between the functions of the federal and District governments makes many branches of the local administration more cumbersome and more expensive than they otherwise might be.

The division of authority in local matters reflects itself in the financial administration. The Commissioners have large control over the preparation of the annual estimates, most of the appropriations for local purposes are made in the annual District appropriation act, and the greater part of District expenditures are audited by the auditor of the District of Columbia; but on the other hand there is no one central authority for the preparation of estimates, annual appropriations for the District are made in several acts of Congress rather than in one budgetary law, and there is no local audit of all expenditures for District purposes.

The government of the District of Columbia is probably weakest on its legislative side. Extensive legislative powers have been conferred upon the Commissioners, but they have not been granted full power to legislate with reference to all matters of purely local importance. Congress is the District legislature for matter of general importance and for many matters of purely

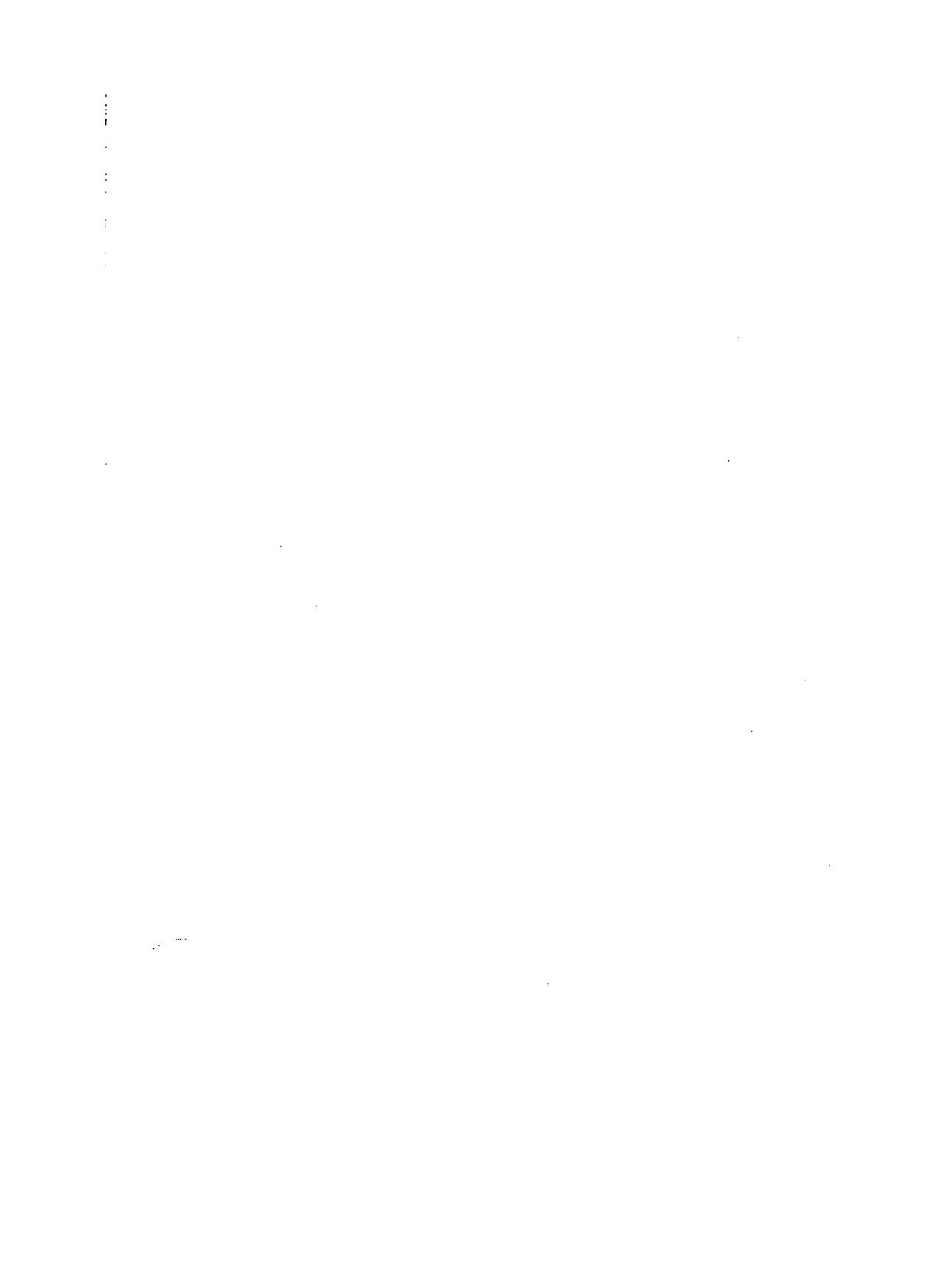
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local interest; and Congress cannot devote an adequate amount of time to the consideration of problems purely local to the federal capital. The national legislature would be relieved of many of the details of local administration if the Commissioners possessed the full powers of a municipal legislature. The adoption by Congress of a municipal code embodying not only the laws now in force with reference to the District of Columbia but also the best and most successful features of municipal legislation in other cities, should decrease the amount of congressional attention necessarily devoted to the more important affairs of the federal district, in as much as such a code if properly prepared would only require alteration when new problems arise.¹ Under the present organization of government Congress must necessarily retain the power of making the annual appropriations for the District of Columbia, but the congressional labor connected with this matter might also well be diminished if the annual estimates were carefully prepared by a body especially provided for that purpose.²

Perhaps also congressional action with reference to the District might be facilitated by the establishment of a municipal library and statistical bureau, in charge of an officer whose duty it should be to prepare for the use of the Commissioners and of Congress information regarding municipal legislation and municipal practice in other cities. Such a bureau might also be given control over records of the District government not in current use, and might serve as a medium for the dissemination of information with reference to District affairs.

¹The adoption of a code of private law in 1901 has already reduced the amount of time devoted by Congress to District affairs.

²See page 113.



BIBLIOGRAPHICAL NOTE.

The legal provisions applicable to the government of the District of Columbia are contained in a number of volumes of which the most important are: W. B. Webb's "Laws of the Corporation of the city of Washington" (Washington, 1868); acts of the legislative assembly of the District of Columbia, 1871-1873; United States Statutes at Large, particularly volumes 20 to 34 covering the period from 1878 to 1907. All federal laws which were in force in the District of Columbia in 1873 are contained in "Revised Statutes of the United States relating to the District of Columbia" (Washington, 1875). Practically all laws both local and federal which were in force in 1889 are contained in the "Compiled Statutes in force in the District of Columbia" (Washington, 1894). For the federal laws passed since 1889 reference must be had to the Statutes at Large. Since the first session of the fifty-sixth Congress there has, however, been prepared under the direction of the Commissioners an annual volume of "Acts of Congress affecting the District of Columbia;" these annual volumes are made up from the separately issued acts of Congress; the separately printed laws are consecutively paged, bound into volumes, and an exhaustive printed index is issued for each volume. For a number of years also the clerk of the Senate Committee on the District of Columbia has for each session of Congress compiled a volume of "Laws, reports, and documents relating to the District of Columbia." The private law and the law relating to the judicial organization was to a large extent codified in 1901, and may be found in the "Code of Law for the District of Columbia" (Washington, 1906). There is great need also for a codification of the laws which relate to the government and to public affairs in the District of Columbia; such a code to be of the greatest service should

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contain not only the federal laws in force, but also the municipal police, health, building, and other regulations. The most important general regulations enacted by the Commissioners are contained in the "Police Regulations of the District of Columbia" (Washington, 1906). The Commissioners' regulations of a more special character are mentioned below.

For the judicial interpretation of laws reference should be had to the "United States Supreme Court Reports" (210 vols. to 1908), and to the "Reports of Cases in the Court of Appeals of the District of Columbia" (31 vols. to 1908). The "Official Opinions of the Attorney-General of the United States" (26 vols. to 1908) should also be consulted for opinions relating to the District of Columbia. There are printed rules for the regulation of the conduct of business before each of the courts of the District of Columbia. The judge of the juvenile court presents an annual report to the President of the United States, and this report is printed as a government document.

The annual report of the Commissioners to Congress contains reports of all departments and offices of the District government; it appears in five volumes and is issued in the regular series of documents of the United States government. Separate issues of the reports of the several departments of the District government may be obtained from the respective departments. Reports of congressional committees also appear in the regular series of United States government publications, but committee hearings must be obtained from the committee by which the hearings are held. Copies of bills introduced in either house may be obtained by applying to a member of Congress or to the document rooms of the Senate and House of Representatives.

For the financial administration the most important materials are the annual reports of the assessor, collector, and auditor of the District of Columbia; the annual estimates submitted to Congress by the Secretary of the Treasury; and the annual hearings held by the House and Senate sub-committees on District appropriations. Much information of value is contained in Dr. William Tindall's "Methods of municipal taxation and assessment in the District of Columbia" (Washington, 1908).

Detailed information regarding the organization and work of

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the police department is contained in the annual reports of the major and superintendent of police, and in the "Manual containing rules and regulations of the Metropolitan Police Department of the District of Columbia" (Washington, 1905). An historical account of the police administration may be found in Richard Sylvester's "District of Columbia Police" (Washington, 1894).

For the official charities of the District of Columbia the annual reports of the board of charities and of the board of children's guardians are the most important sources of information. The most important unofficial charities are covered by the annual reports of the Associated Charities and the Citizens' Relief Association. Reference should also be made to "The Report of the Commissioners appointed to investigate the jail, workhouse, etc., in the District of Columbia" (60th Congress, 2d session, Senate document 648), and to "Proceedings of the Conference on the care of dependent children" (60th Congress, 2d session, Senate document 721). Of much value even yet is the report of the "Joint select committee to investigate the charities and reformatory institutions in the District of Columbia" (Washington, 1897-98; 55th Congress, 1st session, Senate document 185). Perhaps the best general account of municipal charities is contained in Amos G. Warner's "American Charities" (revised edition, New York, 1908).

The annual reports of the health officer form the most important source of information with respect to the activities of the health department. The report of the health officer for 1906 contains a compilation of laws and regulations relating to public health in the District of Columbia. Regulations for the prevention of contagious diseases have been separately issued in pamphlet form (Washington, 1907). The following documents are also of importance: (1) Reports on "The origin and prevalence of typhoid fever in the District of Columbia" (Washington, 1907-08. Public Health and Marine-Hospital Service, Hygienic Laboratory Bulletins Nos. 35 and 44). (2) "Sanitary Milk Production. Report of a conference appointed by the Commissioners of the District of Columbia, with accompanying papers" (U. S. Department of Agriculture. Bureau of Animal

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Industry, Circulars 111 and 114). (3) "Milk and its relation to the public health" (Washington, 1908. 60th Congress, 1st session, House document 702). The most important general discussion of questions arising in connection with local public health administration is Charles V. Chapin's "Municipal sanitation in the United States" (Providence, 1901).

The most important documents bearing upon the control of buildings are: (1) "Plumbing regulations of the District of Columbia" (5th ed., Washington, 1907). (2) "Regulations governing the erection, removal, repair, and maintenance of buildings and the erection and operation of elevators and fire escapes" (Washington, 1902). A new edition of the building regulations is in preparation and will probably be issued before the end of the year 1909; some of the revised regulations have already been put into effect. The annual reports of the inspector of buildings, inspector of plumbing, plumbing board, board for the condemnation of insanitary buildings, inspector of steam boilers, and board of examiners of steam engineers appear in the reports of the engineer department. The most important material relating to the movement for improved housing conditions is: (1) An article by Mr. Charles F. Weller in Charities and the Commons for March 3, 1906, on "Neglected neighbors in the alleys, shacks and tenements of the National Capital;" and a book by the same author entitled, "Neglected Neighbors" (Philadelphia, 1909). (2) A pamphlet by Dr. George M. Kober on "The history and development of the housing movement in the city of Washington, D. C." (Washington, 1907). (3) "Reports relating to affairs in the District of Columbia" (60th Congress, 2d session, Senate document 599), and "Reports of the President's Homes Commission" (60th Congress, 2d session, Senate document 644). The annual reports of the chief engineer of the fire department present in some detail the operations for the prevention and extinguishment of fires. The "Rules and regulations governing the officers and members of the Fire Department" (Washington, 1900), have been in large part superseded, and new regulations will probably be issued before the end of the year 1909.

The public works under the direct control of the District gov-

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ernment are covered by the annual reports of the engineer department, of the electrical department, of the superintendent of the street-cleaning department, of the supervisor of playgrounds, of the superintendent of the bathing beach, and of the sealer of weights and measures. The annual reports of the Chief of Engineers of the United States Army contain the reports of engineer officers in charge of the District park system and of the aqueduct and filtration plant. The Commissioners have issued "General orders regulating the platting and subdividing of lands and grounds in the District of Columbia. In effect May 15, 1899." The engineer officer in control of parks has issued "Rules and regulations for United States parks and reservations" (Washington, 1907). Comprehensive plans for a park system and for the location of public buildings are contained in: (1) "The improvement of the park system of the District of Columbia" (Washington, 1902. 57th Congress, 1st session, Senate report 166). (2) "Papers relating to the improvement of the city of Washington" (Washington, 1901. 56th Congress, 2d session, Senate document 94). (3) "Park improvement papers," edited by Charles Moore (Washington, 1902). The wharf committee has prepared an elaborate report on the "Improvement of the harbor front of Washington, D. C." (60th Congress, 1st session, Senate document 519). There has also been a recent report upon the "Improvement of Valley of Rock Creek" (60th Congress, 1st session, Senate document 458). For brief accounts of the waterworks system, wharves, and street paving see notes by Daniel E. Garges in *Annals of the American Academy of Political and Social Science*, XXIX, 378, 586; XXX, 585. General problems with reference to public works are discussed in M. N. Baker's "Municipal engineering and sanitation" (New York, 1902), and in S. Whinery's "Municipal public works" (New York, 1903).

The most important information regarding the public schools is contained in the annual reports of the board of education and in the "Rules and by-laws of the board of education of the District of Columbia" (Washington, 1907). Much information about the school buildings is contained in the "Report of the schoolhouse commission upon a general plan for the consolidation

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of public schools in the District of Columbia" (Washington, 1908, 60th Congress, 1st session, Senate document 338), and in a report on the "Condition of Schoolhouses in the District of Columbia" (60th Congress, 2d session, House document 1346). An article on "Education in the District of Columbia," in the Educational Review for February, 1907, discusses the local school organization. Frank Rollins' "School administration in municipal government" (New York, 1902), is useful as a general discussion of methods of municipal school administration. Information as to the organization and work of the public library is contained in the annual reports of the board of trustees of the public library.

The annual reports of the superintendent of insurance, of the inspector of gas and gas meters, and of the sealer of weights and measures contain full accounts of the work of these officers. Laws and regulations governing important businesses affected with a public interest are contained in: "Laws relating to street railway franchises in the District of Columbia" (Washington, 1905); "Regulations governing the inspection of illuminating gas and gas meters in the District of Columbia" (Washington, 1907); and "Excise law of the District of Columbia together with amendments thereto. Rules and regulations governing the sale of intoxicating liquors in the District of Columbia" (Washington, 1907). Reference should also be made to the annual reports presented to Congress by the street railway, gas, and electric companies.

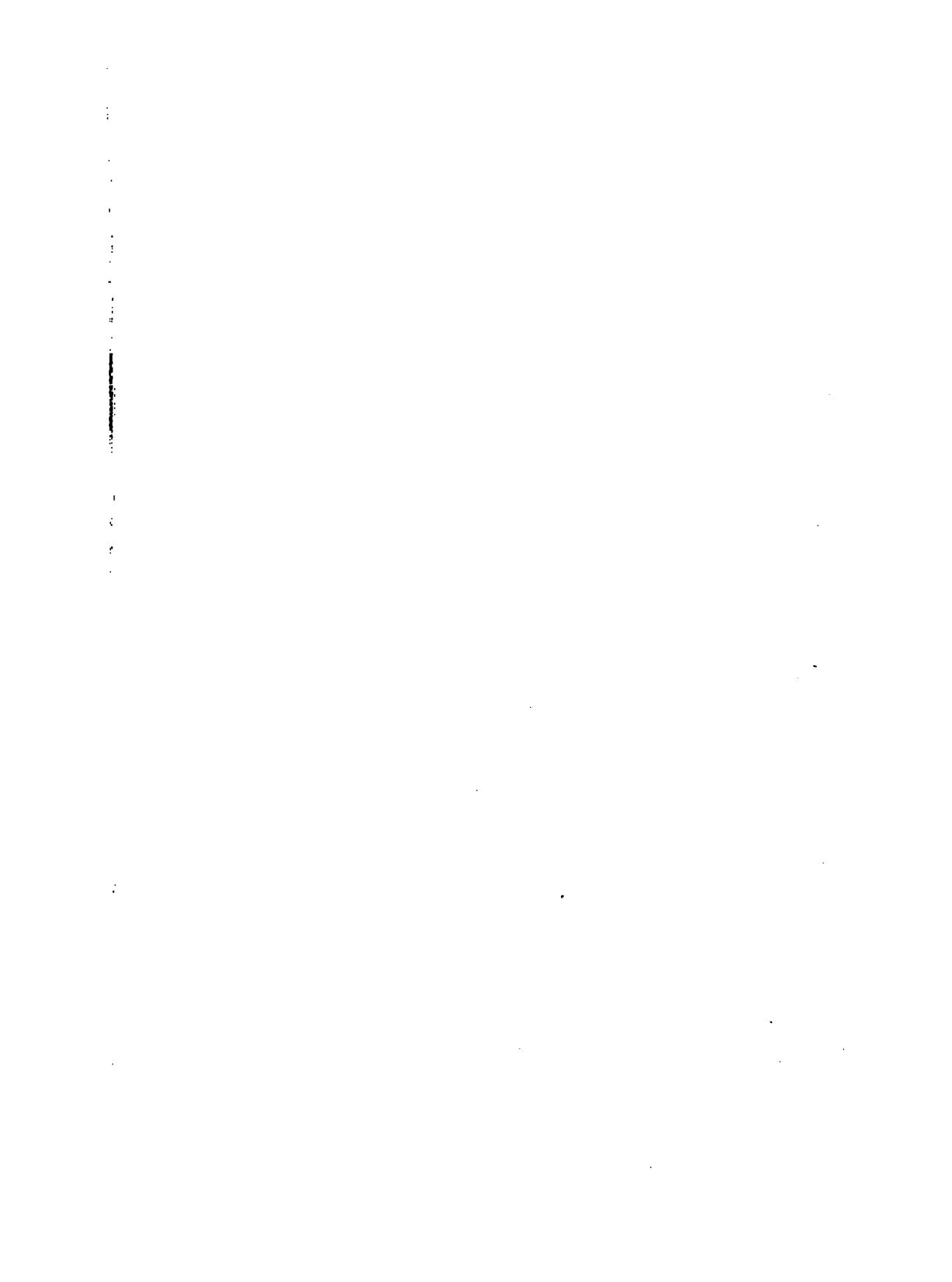
There is little printed material dealing with citizens' associations and with other popular bodies which take an active interest in the affairs of the District government. The board of trade publishes an annual report. Many of the local citizens' associations have printed constitutions and by-laws and some of them publish annual statements or reports. The newspapers print full reports of the meetings of the citizens' associations, and are the most important sources of information regarding the activities of these bodies.

In addition to the material already mentioned there is a vast amount of magazine and pamphlet literature relating to the District of Columbia, much of which is listed in W. B. Bryan's

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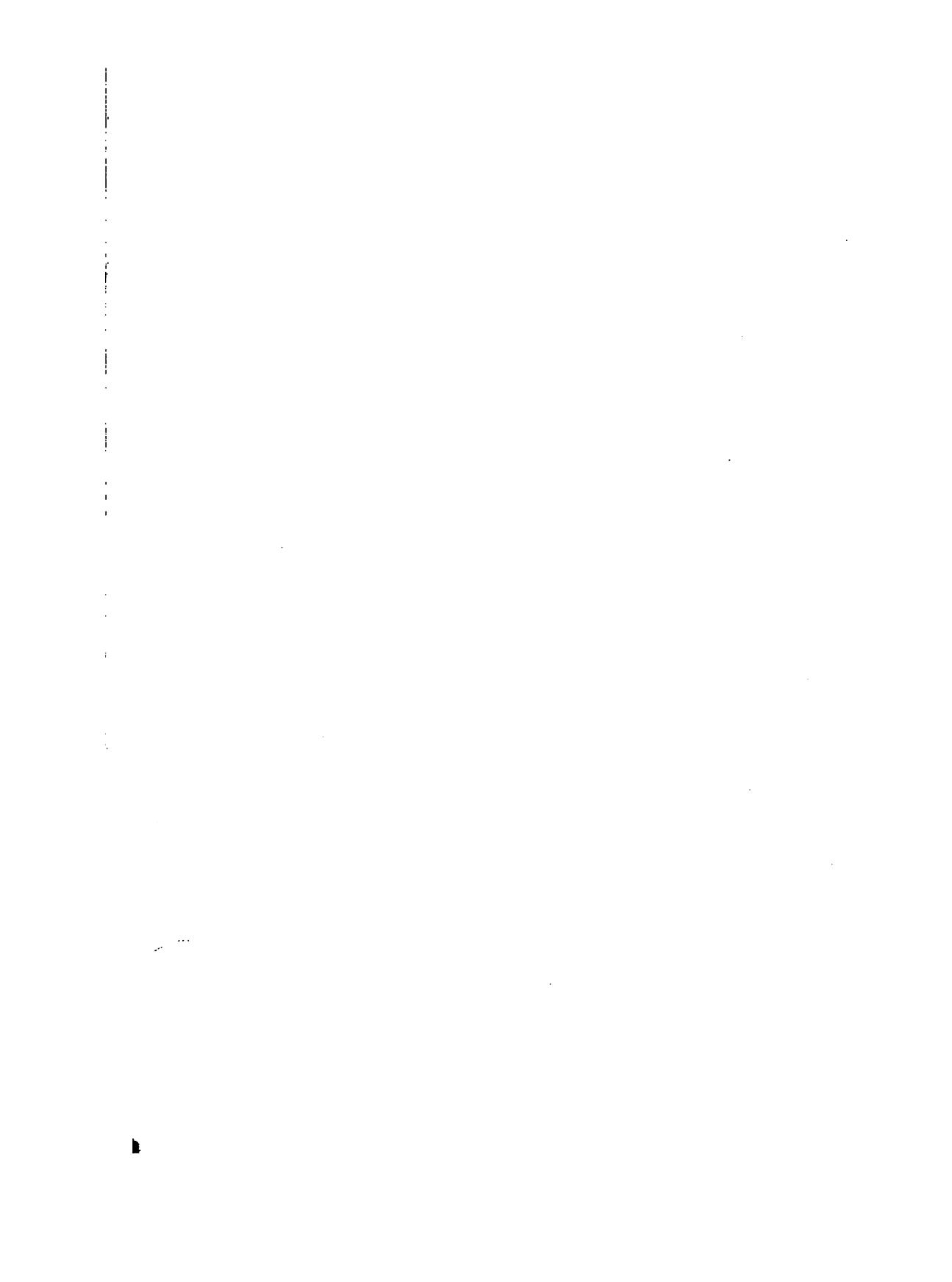
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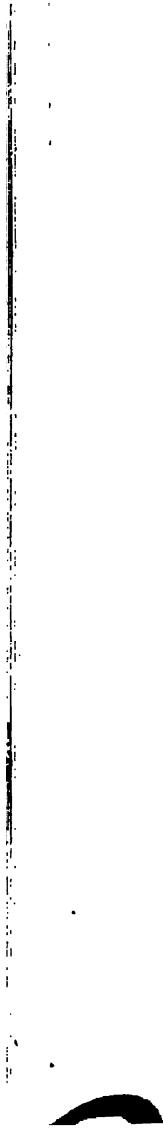
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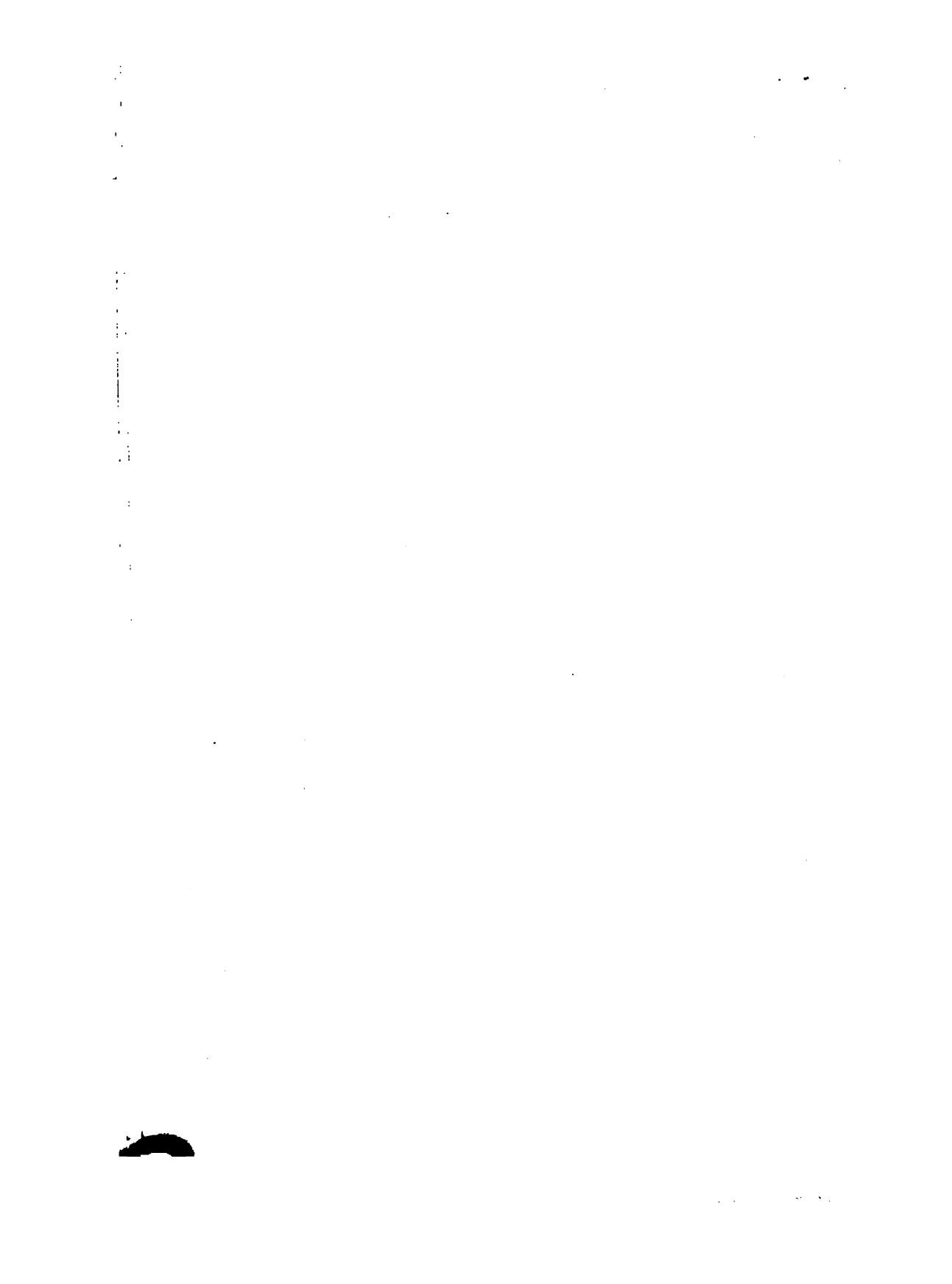
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